

THE FACTBOOK ON THE
ILLCIT TRADE IN TOBACCO
PRODUCTS

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Transcrime is the Joint Research Centre on Transnational Crime of Università Cattolica del Sacro Cuore of Milan and the University of Trento. The Centre, directed by Ernesto U. Savona, Professor of Criminology at Università Cattolica, represents the multiannual union between experience and innovation in the field of criminological research.

There are offices in Milan and in Trento. In each office, there is a team of researchers and secretariat/management personnel. Transcrime aims at being a national and international point of reference in the criminological research panorama.

The vision of the Centre is to increase knowledge in the criminological field and in the prevention of crimes, developing innovative ideas and cutting-edge techniques.

Transcrime combines its experience in applied research with the consolidated scientific tradition of Università Cattolica del Sacro Cuore in Milan and University of Trento, mixing a practice-oriented approach with a profound understanding of criminal phenomena. Through this experience, it developed a solid network of relationships in the academic field, institutions, international organisations and businesses.

The Centre also plays an important role in the support and development of educational activities at Università Cattolica del Sacro Cuore of Milan. Its principal aim is to achieve close integration between scientific innovation and academic education. In particular, since the academic year 2005/06, Transcrime has managed a MA programme dedicated to crime and security (until academic year 2012/13 the curriculum *Crime&Tech: Crime Sciences and Technologies for Security* within the MA in Applied Social Sciences; since the 2013/14 academic year Curriculum POLISI: Policies for security within the MA in Public Policy). In addition, the Centre has contributed to the development of the International Ph.D. programme in Criminology, coordinated by Professor Savona, which is currently the only doctoral course dedicated to Criminology in Italy.

Transcrime is an independent academic centre. It pursues an autonomous research agenda, which may be developed also through contracts and funding by private and public local, national and international institutions. The source of funding is always made public through Transcrime's website.



THE FACTBOOK ON THE ILLICIT TRADE IN TOBACCO PRODUCTS

This report provides the Polish country profile of the project *the Factbook on the Illicit Trade in Tobacco Products* (henceforth ITTP).

The project has been developed by Transcrime after the *Round Table on Proofing EU Regulation against the Illicit Trade in Tobacco Products* hosted by Università Cattolica of Milan, on 5 May 2011. During the Round Table, participants (researchers and policymakers with experience in the field of the illicit trade in tobacco products) agreed on a research agenda concerning the ITTP (Transcrime 2011b). Items 3 and 6 of the research agenda focused on the need for better analysis of the tobacco market taking account of its dual nature (i.e. legal and illicit) and on how licit and illicit markets vary across different countries and regions. Given these considerations, Transcrime has developed the *Factbook on the ITTP*, a multi-annual research plan providing detailed analyses of the ITTP and of its relations with the legal market and other socio-economic and political factors in a number of countries around the world.

The aim of the Factbook is to provide an innovative instrument able to shed light on the complex mechanisms behind the ITTP in different countries. This report focuses on Poland.

Tobacco consumption is undoubtedly a danger for human health, and governments should carefully regulate the tobacco market. Illicit tobacco avoids state regulation and taxation and may jeopardise tobacco control policies.

The Factbook will contribute to raising awareness about the global importance of the ITTP and about the strategies available to prevent it. The Factbook has been developed for a wide readership ranging from policymakers, through academics, to interested stakeholders, **the intention being provide a support to develop knowledge-based debates and policies on the ITTP.**

The information gathered for this report originates from academic literature, grey literature, open sources, questionnaires and interviews with experts and stakeholders.

The results of the report do not claim to be exhaustive, nor an accurate reflection of criminal practices. They provide an initial assessment of the ITTP in Poland and a starting point for future research.

As a concerned stakeholder in the fight against the illicit trade in tobacco products, Philip Morris International (PMI) welcomed Transcrime's initiative to develop the Factbook on the ITTP with financial support and the provision of data. However, Transcrime retained full control and stands guarantor for the independence of the research and its results. Information and data for the study have been collected by Transcrime and have not been shared with PMI.

Especial thanks go to **Piotr Niemczyk**, Niemczyk & Partners Sp. z oo, **Wolfgang Schmitz**, German Zollkriminalamt.



This report is part of the project *The Factbook on the Illicit Trade in Tobacco Products*. It focuses on Poland, where the illicit trade in tobacco products is an emerging issue. The importance of the topic is due to the high and rising penetration of the Polish tobacco market and to Poland's important role in the illicit traffic of tobacco products to the EU. Increasing concerns about illicit tobacco have spurred an increase in the fight against the ITTP and the launching of the second national strategy in 2012.

WHAT CAN BE FOUND IN THIS REPORT?

This report is organised into three chapters:

- Chapter one deals with **the five drivers of the ITTP**: society and economy, the legal market, regulation, the crime environment and enforcement. **The drivers are important areas whose structures may positively or negatively impact on the ITTP. To enable comparison with other country profiles, four key indicators have been selected for each driver.** The data for the driver indicators come from comparable sources (latest available years). When possible, the report provides the most up-to-date data from national sources.
- Chapter two **focuses on the four components of the ITTP**: demand, supply, products, *modus operandi* and geographical distribution.
- Chapter three identifies the **key factors of the ITTP in Poland and frames the drivers in the components**, analysing how different elements of the drivers influence the components of the ITTP.

THE FIVE DRIVERS

- **Society and economy**: twenty years of social and economic reforms have given Poland a solid and growing economy. Poland average wealth remains below the EU and OECD averages, also because of economic disparities within the country.
- **Legal market**: Poland is the main manufacturer of tobacco products in Europe and the third exporter in the world. In 2009, the government deregulated and reduced public support to the tobacco market. The sector contracted and the availability of raw tobacco and disused manufacturing equipment increased. The industry is also changing and growing under the influence of greater exports and higher importance of multinational tobacco companies. With respect to consumption, increasing prices drive down selling volumes and induce smokers to switch to cheaper products. Nevertheless, prevalence is high in general and increasing among women.
- **Regulation**: regulation of the tobacco market is medium in Poland. Tax incidence on cigarettes is among the highest in the world but the country invests scant resources in tobacco control policies. There is a medium-low level of supply chain control, a medium-high level of control on tobacco consumption, and a medium level of control over sales, advertising and promotion.

- **Crime environment:** Poland has low crime levels, with medium-low corruption and a medium informal economy. However, numerous organised crime groups are active in the country. Drug prevalence is in general low; only the use of cannabis is rather widespread among young people. Synthetic drugs have become increasingly common.
- **Enforcement:** the effectiveness of Polish law enforcement is increasing. The fight against the ITTP has improved in recent years, due to a larger involvement of national agencies, international cooperation and new equipment. The obligations on tobacco manufacturers mainly derive from voluntary agreements between the industry and the European Commission.

THE FOUR COMPONENTS OF THE ITTP

- **The demand:** the low price of illicit tobacco is the main driver of the demand for it. Avoiding taxes and buying tobacco products for less than half the legal price increases the accessibility of these products and is an opportunity for tobacco consumers. In Poland, consumers can find illicit tobacco products on the streets, in open markets, and on the Internet.
- **The supply:** profitability and opportunity are the main drivers of the supply of illicit tobacco and are crucial factors for all the actors involved in the ITTP, independently of their degree of organisation. In Poland, organised groups and single smugglers are involved in the supply chain of the ITTP. Proximity with the main source countries of cheap/illicit tobacco to the East and with rich markets to the West contributes to making Poland both a key destination and a transit country of illicit tobacco products.
- **The products:** it is difficult to assess the extent of the ITTP in Poland owing to the lack of publicly available official estimates of the illicit tobacco market. The available data indicate that the impact of the ITTP is increasing and that its penetration in the tobacco market is above 13%. Illicit whites are the most widespread product on the black market; contraband cigarettes, counterfeits and unbranded raw tobacco are also available.

- **Modus operandi and geographical distribution:** smugglers mainly use motorways and railways connecting Poland and its eastern neighbours to introduce cigarettes in the country. Smugglers aiming at other EU Member States pass through Poland to Germany on highways. Counterfeiting relies on the availability of raw tobacco and cheap machinery. The exploitation of the internet and of postal services by the ITTP is increasingly common in Poland. The tobacco black market is much more widespread and is rooted in the East of the country.

FRAMING THE COMPONENTS IN THE DRIVERS

The four key factors of the ITTP

The report identifies four key factors of the ITTP in Poland. They are fundamental determinants of the illicit trade and affect all its components. Hereafter, four subsections analyse how the five drivers affect the key factors and in turn the components of the ITTP. The key factors are:

- **Accessibility:** the price of illicit tobacco, and particularly its relative price compared to legal products, is a crucial factor in determining the scope and prevalence of the ITTP.
- **Availability:** the diffusion of illicit tobacco products have an important impact on the ITTP.
- **Profitability:** the ITTP is an extremely profitable activity owing to the high income that it offers compared with its operational costs.
- **Risk:** the threat of *detection/accusation/conviction* and the sanctions imposable impact on the diffusion of the ITTP.

This study analyses the complex interactions among the drivers, the key factors and the components of the ITTP. The following figures synthesise the main interactions, highlighting the multifaceted nature of the ITTP in Poland.

Figure 1. The interaction between the demand for illicit tobacco and the five drivers

Source: Transcrime elaboration

negative effect
(increases the ITTP)positive effect
(decreases the ITTP)

THE DEMAND FOR ILLICIT TOBACCO AND THE DRIVERS

The main factors affecting the demand are the **accessibility** and the **availability** of illicit tobacco (Figure 1).

Society and economy. Unemployment and economic difficulties may favour the demand for illicit tobacco due to its low price. The ITTP allows economically disadvantaged groups to maintain their consumption habits; this is particularly true in the eastern regions, which have benefited less from the country's important economic growth.

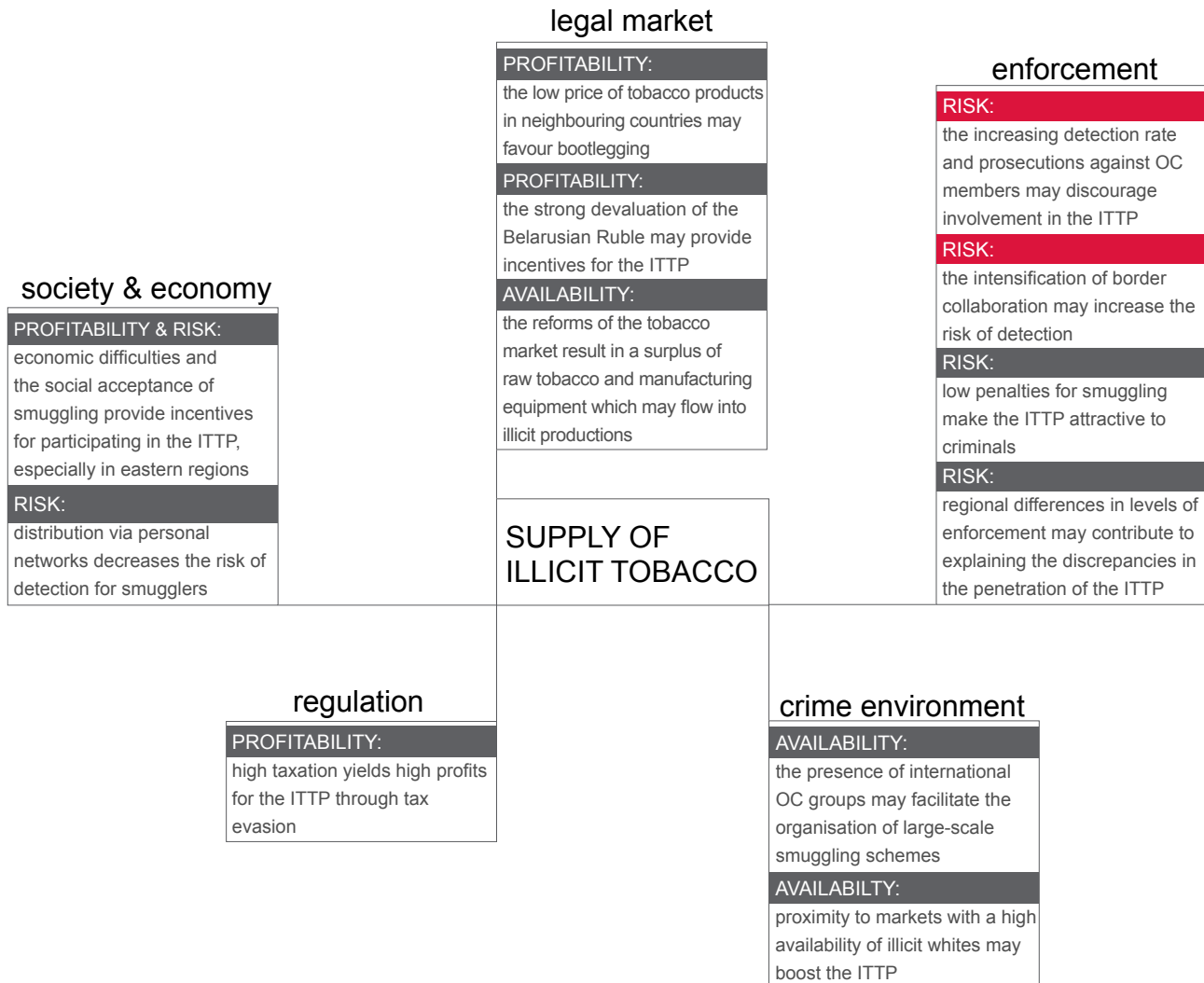
Legal market. The continuous increases in tobacco prices have generated a downtrading trend, which has made HRT and green leaves more attractive; it may also favour the diffusion of cheaper and more accessible illicit tobacco products.

Regulation. Poland levies high taxation on cigarettes. Increases in the tax level on legal tobacco augment the relative accessibility of tax-free illicit tobacco. Moreover, regulatory interventions like the prohibition of cigarette vending machines and the planned ban on menthol and slim cigarettes may involuntarily boost the illicit market.

Figure 2. The interaction between the supply of illicit tobacco and the five drivers

Source: Transcrime elaboration

negative effect (increases the ITTP)	positive effect (decreases the ITTP)
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10

Crime environment. Smuggled and counterfeit products enjoy a certain acceptance in Poland; this fact may favour the expansion of the ITTP. Drug consumption is generally low, but the growing popularity of cannabis among young people may favour the expansion of the ITTP by providing additional distribution channels.

Enforcement. There are no public policies to raise awareness about the dangers of illicit tobacco in Poland. This may prevent the reduction of black-market consumers.

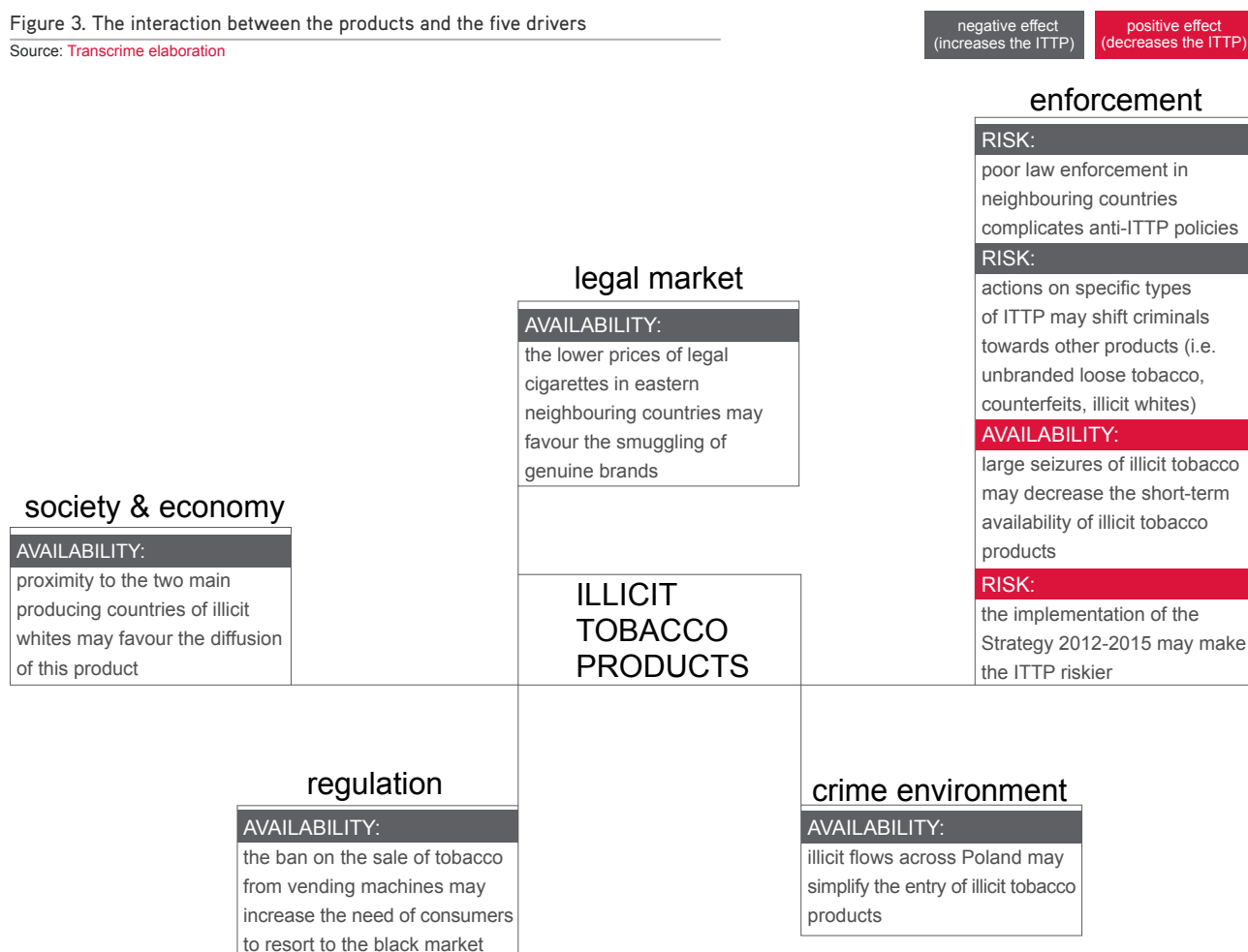
THE SUPPLY OF ILLICIT TOBACCO AND THE DRIVERS

Profitability, availability and risk are important factors for the supply of illicit tobacco (Figure 2).

Society and economy. Economic difficulties, lack of legitimate jobs and the availability of alternative income sources may foster participation in the ITTP. This may be the case of eastern regions, where the ITTP is more widespread. The distribution of illicit tobacco products through personal channels may be a way to reduce the risk of detection for smugglers and may increase the incentives to engage in the traffic.

Figure 3. The interaction between the products and the five drivers

Source: Transcrime elaboration



Legal market. The pricing and taxation policies of neighbouring countries may have negative side effects on the size of the Polish illicit market. The 2009 reform of the Polish tobacco industry and the economic crisis that hit Belarus may also increment the supply of illicit products. Liberalisation led to an increase in the availability of uncontrolled raw tobacco, while the devaluation of the Belarusian Ruble made cigarettes coming from that country cheaper.

Regulation. High tax levels expressed in monetary terms yield high profits for the ITTP. On the one hand, smugglers exploit cross-border differentials between tobacco taxation in Poland and that in neighbouring countries; on the other hand, they evade taxes on tobacco.

Crime environment. The presence of criminal groups may favour the development of sophisticated smuggling schemes, which may also involve the use of bribery. Poland borders on the countries where the majority of European illicit whites are manufactured; this may boost their diffusion.

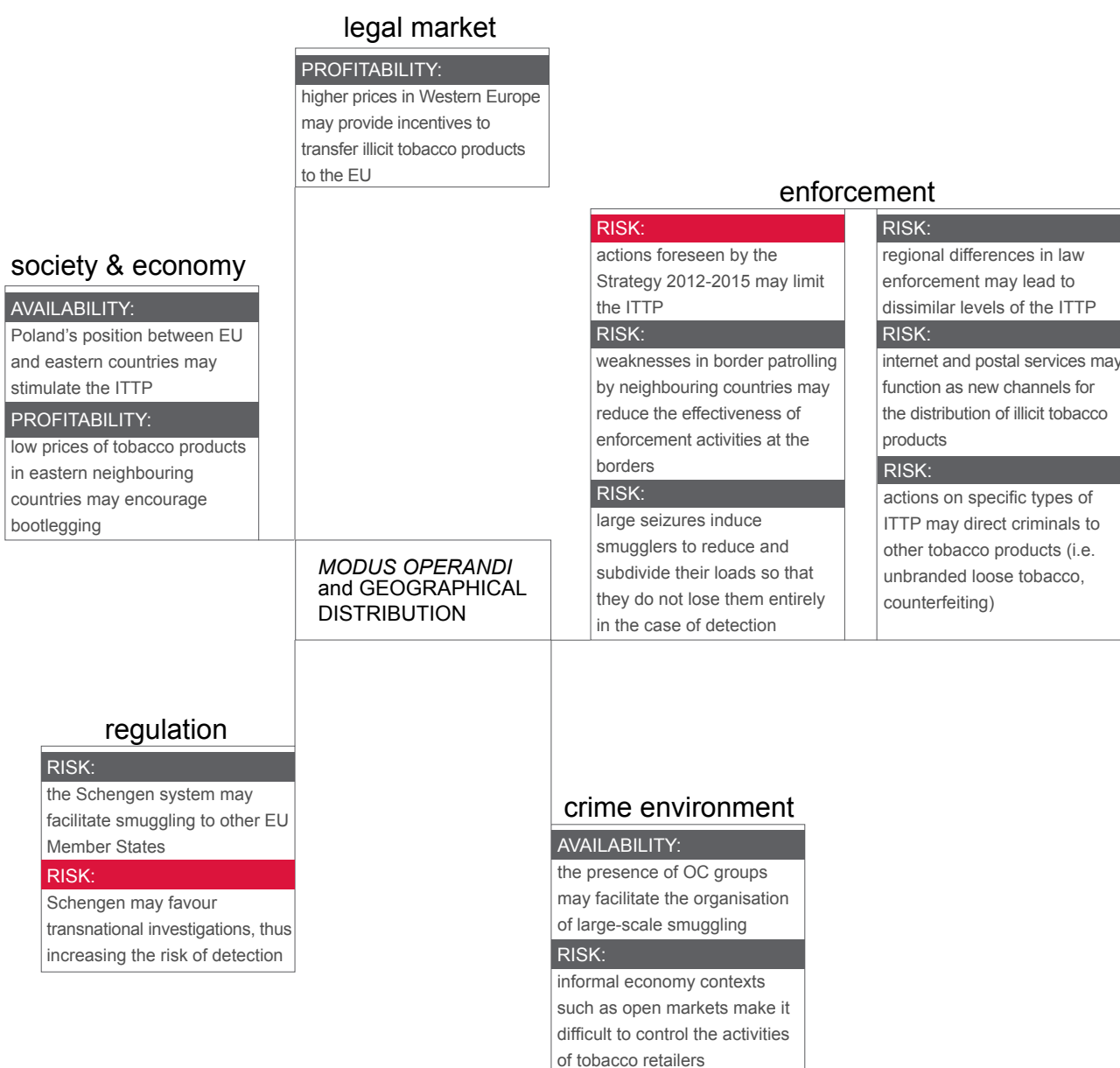
Enforcement. The effectiveness of Polish law enforcement is increasing, and this may discourage smugglers despite the low level of penalties. International cooperation and joint action plans against the ITTP play an important role in reducing the traffic.

THE PRODUCTS AND THE DRIVERS

The main factors determining the development and diffusion of different types of products are **availability** and **risk** (Figure 3).

Figure 4. The interaction between the *modus operandi* and the geographical distribution of the ITTP and the five drivers

Source: Transcrime elaboration

positive effect
(decreases the ITTP)negative effect
(increases the ITTP)

Society and economy. The diffusion of hand rolling tobacco (henceforth HRT) may enable smugglers to expand the traffic of this product. HRT can be highly profitable, especially because of its low cost of production.

Legal market. The Russian Federation and Belarus are critical producers of illicit whites. Prices of cigarettes in eastern neighbouring countries are lower than in Poland. These differentials stimulate the ITTP.

Regulation. Restrictions on the use of vending machines may create opportunities for the selling of illicit products especially when legal retailers are closed.

Crime environment. The presence of criminal groups may favour the establishment of illicit tobacco factories, whose management requires organisation and capital. Moreover, these groups are often involved in other illicit international traffics, which may provide them with channels to bring foreign cigarettes into Poland.

Enforcement. Increasing commitment to the fight against the ITTP has resulted in growing numbers of seizures and in the implementation of the second national strategy against the ITTP. Nonetheless, law enforcement on certain products may involuntarily stimulate the development of other forms of ITTP, such as the use of postal services and the illicit diffusion of loose tobacco. Conversely, the lack of control over the ITTP in neighbouring countries may facilitate the flow of illicit products to Poland.

THE *MODUS OPERANDI* AND GEOGRAPHICAL DISTRIBUTION AND THE DRIVERS

Risk and profitability play a crucial role in influencing the *modus operandi* and the geographical distribution of the ITTP (Figure 4, p.12).

Society and economy. Poland's geographical position, close to countries with cheaper tobacco to the East and the EU to the West, affects the distribution of the ITTP. Polish regions close to the eastern borders have higher levels of non-domestic packs.

Legal market. Higher prices of tobacco products in Germany, and in the EU in general, may push tobacco smugglers to extend their activity into Western Europe.

Regulation. The effect of Schengen Agreement on the ITTP is ambiguous. On the one hand, crossing borders is easier and less risky. On the other hand, Schengen Agreement has improved transnational collaboration among law enforcement authorities, thus heightening the risks of detection for criminals. The regulation of the supply chain relies on agreements between leading tobacco factories and European institutions and may prove unable to prevent the ITTP. Reform of customs laws may reduce individual smuggling.

Crime environment. The presence of criminal groups may favour the development of complex smuggling schemes involving even legal actors like customs officers. Surveillance of contexts characterised by a widespread informal economy is difficult and may increase opportunities for smugglers.

Enforcement. More effective law enforcement may induce smugglers to develop new systems to avoid controls and to explore different illicit markets.

CONCLUSIONS

There are no official estimates of the prevalence of illicit tobacco in Poland, and this makes it difficult to provide a clear picture of the ITTP. Most unofficial estimates concerning 2011 and 2012 consider the ITTP to account for about 13% of the market. However, sources such as Euromonitor International indicate a penetration of 24%. Regional differences in the consumption of illicit cigarette are substantial. The levels of non-domestic packs are above 30% in the East of the country, while they decrease moving westwards. Illicit whites are the most widespread product consumed; but contraband cigarettes and counterfeits are also available. Seizures suggest that HRT is growing in importance. Nevertheless, there is no current official estimate on its incidence in the market.

Smugglers exploit Poland's proximity to countries with low tobacco taxation and lax monitoring of the supply chain to obtain cheap tobacco products that they later traffic in Poland or move further to other EU markets. Investigations indicate that organised crime groups also engage in cigarette counterfeiting and manufacturing of illicit tobacco products.

The present study demonstrates that more research and accurate data would allow a better assessment of the ITTP in Poland. Considering the limited number of previous studies and the lack of data, the results of this study are provisional. They offer a first analysis of the ITTP in Poland and show that more research is needed in this field.

The ITTP is a complex problem, not limited to an issue of law enforcement and criminal justice policy alone. In Poland, the ITTP seems to have increased over recent years. The Government has reacted with various measures. Nevertheless, despite the launch of a second action plan in 2012, additional preventative measures, such as national public awareness campaigns, are necessary. Effective action against the ITTP requires comprehensive strategies including criminal law, administrative sanctions and other indirect measures aimed at reducing crime opportunities.

The evolution of the project has shown that countries have very different situations in relation to the available data on the ITTP. In some cases, the quality of the available data is low and there are no official, regularly updated, data. Inevitably, this may affect the quality and reliability of the results. In these cases, institutions, businesses and other stakeholders concerned with the ITTP should consider how to improve the data collection on illicit tobacco. This will result in an improvement in the knowledge of the ITTP and, in turn, in better tobacco control policies, since quite often the impact of specific policy measures upon crime may be overlooked due to the lack of reliable data.

Following the completion of the first phase of the project focused on collecting facts and data through the country profiles, Transcrime will perform a comparative analysis of the selected countries. This will provide additional insights in the complexity of the ITTP and allow for the elaboration of policy recommendations.



Location:
Poland, officially the Republic of Poland, is a Central European country. It borders on Kaliningrad Oblast (Russia) and Lithuania to the North; Ukraine, Belarus to the East; Czech Republic and Slovakia to the South; Germany to the West. Poland covers an area of 312,679 square kilometres.

Population: 38,534,157 (2011)
Male: 18,573,464 (48.2%)
Female: 19,960,693 (51.8%)
Growth Annual Rate: 0.9 (2011)
Age Structure: (0-14) 14.7%; (15-64) 71.5%; (65+) 13.8%
Fertility Rate: 1.3 children born/woman (2011)
Life expectancy at birth (years): 76.7 (2011)
GDP: US\$ 514,496,456,773 (2011)
GDP growth: 4.4% (2011)
Inflation consumer price: 4.2% (2011)
Income level: High

WHY FOCUS ON THE ITTP IN POLAND?

First, Poland's geographical position makes it an important destination market for illicit tobacco products. Poland is also an important country of origin and transit for illicit tobacco flowing to the EU. Second, the commitment of the country to fulfilling the EU parameters and the consequent increases in taxation may have augmented demand for cheap/illicit tobacco. Third, eastern neighbouring countries have cheaper cigarettes and lax controls on their tobacco supply chain.

Despite the above factors, there are no official estimates of the ITTP in Poland. In 2012, unofficial sources estimated that the illicit market represented more than 13% of the Polish tobacco market, with wide differences between the East and the West of the country.

Tobacco is a dual market consisting of a legal and an illegal part (Figure 5). The two sides of the market are connected with each other: actions affecting one side of the market influence the other side as well.

Figure 5. The dual tobacco market



The ITTP comprises different activities and products:

Smuggling (or contraband): the unlawful movement or transportation of tobacco products (genuine or counterfeit) from one tax jurisdiction to another without the payment of applicable taxes or in breach of laws prohibiting their import or export (Joossens and Raw 2008).

Counterfeiting: the illegal manufacturing of a product bearing or imitating a trademark without the owner's consent. Illegally manufactured products can be sold in the source country or smuggled into another country (Joossens and Raw 2008).

Bootlegging: the legal purchase of tobacco products in a low-tax country and the illegal resale of these products in a high-tax country. Bootlegging concerns individuals or small groups who smuggle smaller quantities of cigarettes, taking advantage of tax differentials, with the aim of making extra income (Hornsby and Hobbs 2007).

Illegal manufacturing: cigarettes manufactured for consumption, which are not declared to the tax authorities. These cigarettes are sold without tax and may be manufactured in approved factories or illegal covert operations (Joossens et al. 2010). **Unbranded tobacco:** manufactured, semi-manufactured and even loose leaves of tobacco (also known as "chop-chop" (Geis 2005)), illegally sold by weight (e.g. in large plastic bags, also known as "baggies"), with no labelling or health warnings and consumed in roll-your-own cigarettes or in empty cigarette tubes (Walsh, Paul, and Stojanovski 2006).

Cheap Whites or Illicit Whites: cigarettes produced legally in one country, but normally intended for smuggling into countries where there is no prior legal market for them. Taxes in production countries are normally paid, while they are avoided/evaded in destination countries (Allen 2011a).

In Poland, there are no official data on the prevalence, demand for, and consumption of illicit products. This entails that the actual dynamics of the illicit market and its structure should be researched further. The main sources used for this study have been international organisations' reports, Customs research papers and seizures data, KMPG and Euromonitor International data, empty pack surveys commissioned by the tobacco industry and recognised by OLAF and the European Commission (henceforth EC), and media news. All non-official sources are treated with caution in order to minimise the impact of their possible bias.

WHAT CAN BE FOUND IN THIS REPORT?

This report is organised into three chapters.

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Chapter 1 is composed of five subsections analysing the **five drivers of the ITTP**:

- 1) society and economy
- 2) legal market
- 3) regulation
- 4) crime environment
- 5) enforcement

The drivers are important areas whose structures may influence the ITTP positively or negatively. Transcrime selected the drivers based on a review of the literature on the ITTP and discussions with stakeholders and experts. Each subsection provides information on the key aspects of each driver.

To enable comparison with other country profiles, each driver has four key indicators. The data for the drivers' indicators come from different sources to ensure comparability among different countries to the last available years (e.g. World Bank, WHO, UN). When possible, the report provides the most up-to-date data from national sources. For four indicators, Transcrime has elaborated composite indicators (see Regulation and Enforcement). Composite indicators assess the presence of specific policy measures in the country and range from 0 (no measure is present) to 5 (all measures are present).

A higher value on the composite indicators does not always imply a better situation. Their purpose is rather to assess the intensity of policy measures in a specific field. The information used for the assessment is drawn from the literature, official sources (reports, websites, legislation) and experts.

Chapter 2 analyses the illicit trade in Poland, dividing it into its **four components of the ITTP**:

- 1) the demand
- 2) the supply
- 3) the products
- 4) the *modus operandi* and geographical distribution.

Chapter 3 combines the results of the two previous chapters to identify the key factors behind the ITTP and show how the various elements of the drivers influence the illicit trade.

Chapter 1

the five drivers

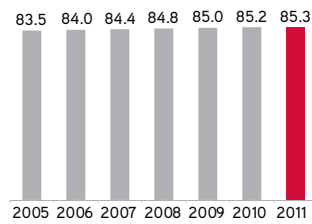
THE FIVE DRIVERS: SOCIETY & ECONOMY

Since the 1990s, Poland has implemented social and economic reforms to become a high-income country with a large and diversified domestic economy. During the 2008-09 global financial crisis, Poland was the only EU Member State that continued to grow. Nevertheless, national expenditure on health and education is low and wide regional economic inequalities persist.



Adult Population

Population aged 15+
Source: The World Bank



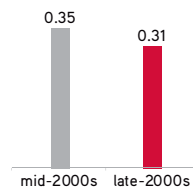
85.3%

15 out of 193 countries
(2011)



Income Inequality

GINI coefficient after taxes
Source: OECD



0.31

17 out of 34 countries
(late 2000s)



Education System

Education expenditure
as % of GDP
Source: The World Bank



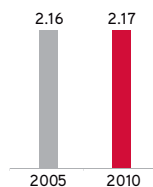
2.9%

58 out of 157 countries
(2010)



Migration

International migrant stock
as % of population
Source: The World Bank



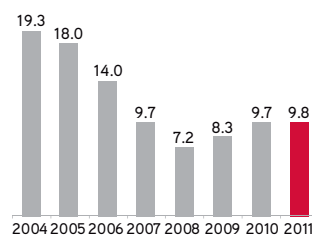
2.17%

139 out of 213 countries
(2010)



Unemployment

Total unemployment
rate (% of labour force)
Source: OECD



9.8%

9 out of 34 countries
(2011)



Last available data (March 2013): **14.3%** (Central Statistical Office 2013)

- **Poland transitioned from a socialist to a market economy with a radical set of reforms in late 1989 and early 1990 (Keane and Prasad 2006).**
 - Poland was the first country in Central and Eastern Europe to re-establish a market economy. The goals of the first market reform package, called the Balcerowicz Plan,¹ were macroeconomic stabilisation, price liberalisation and reductions of subsidies (Wozniak 1998).
 - The country implemented liberalisation at a more rapid pace than most of the other transition economies and achieved the highest rate of GDP growth along with the smallest increase in inequality (Keane and Prasad 2000; 2006).
- **Poland has successfully integrated into the European Union since it joined it in 2004 (The World Bank 2013).**
 - The process of accession to the EU prompted a number of reforms in different areas to meet the Copenhagen criteria.² In 1991, Poland became an EU candidate country. In 1997, EU membership talks were launched and in 2004 Poland joined the EU (Civitas 2011; Ministry of Foreign Affairs 2012).
- **Poland is a highly developed country with a low income-inequality.**
 - According to the Human Development Report, Poland has a Human Development Index (HDI) of 0.813. This value ranks Poland 39th in the world and indicates a **very high human development** (UNDP 2011, 127).
- **Poland had a Gini index of 0.342 in 2008 and ranked 89th out of 136 countries in income inequality** (CIA 2012).³ Among OECD countries, Poland ranks 17th with an index equal to 0.310. People in the top quintile of the population have an average income of US\$28,024 per year, whereas the bottom quintile lives on US\$5,814 per year (OECD 2012f). Poland is the OECD country that most improved its Gini index after taxes during the 2000s (OECD 2012a). Inequality remained stable during the global financial crisis (The World Bank 2012b; Bastagli, Coady, and Gupta 2012).
- **Poland has one of the greatest territorial disparities in terms of GDP per capita in the OECD** and this gap has increased since the mid-1990s (see Figure 6, p.24) (OECD 2010, 230).
 - Three types of disparity persist:
 - between eastern and western regions,
 - between Warsaw and the rest of the country,
 - between large urban areas and rural ones (OECD 2010, 230).
- **Poland was the only economy in the EU to avoid a recession during the 2008-09 global financial crisis (The World Bank 2012b).**
 - In 2009, Poland's GDP grew by 1.6%, while it was declining by 4.2% in the EU (Figure 7, p.24). Domestic demand, an improved labour market, and increased credit boosted economic expansion to almost 4.0% in 2010 and 4.3% in 2011. GDP growth slowed to around 2.5% in the second quarter of 2012 because of persisting volatility and uncertainty in the external environment. Both consumption and investment weakened (The World Bank 2012b, 2).
- **Unemployment is the main economic concern of Poles (TNS Opinion & Social 2012).**
 - **Since 2009, the unemployment rate has risen.** In 2011, the unemployment rate was 9.8%; the ninth among OECD countries (OECD 2012e). Data from March 2013 indicate that unemployment rate is above 14.3% (GUS 2013).

1. For more information on the Balcerowicz Plan, see Balcerowicz (1994).

2. The Copenhagen Criteria were set as the prerequisites for accession to the EU in June 1993. These criteria, "Democracy, the rule of law, human rights and respect for and protection of minorities, the capacity to cope with competitive pressure and market forces", became the expressions most frequently used in the progress reports prepared for the accession countries (Ikizer 2012, 12).

3. Namibia ranks first and has highest income inequality, while low inequality countries occupy the last positions in the ranking.

Figure 6. Average income and households below the poverty line per region, 2011

Source: Transcrime elaboration on Central Statistical Office of the Republic of Poland (2013) data

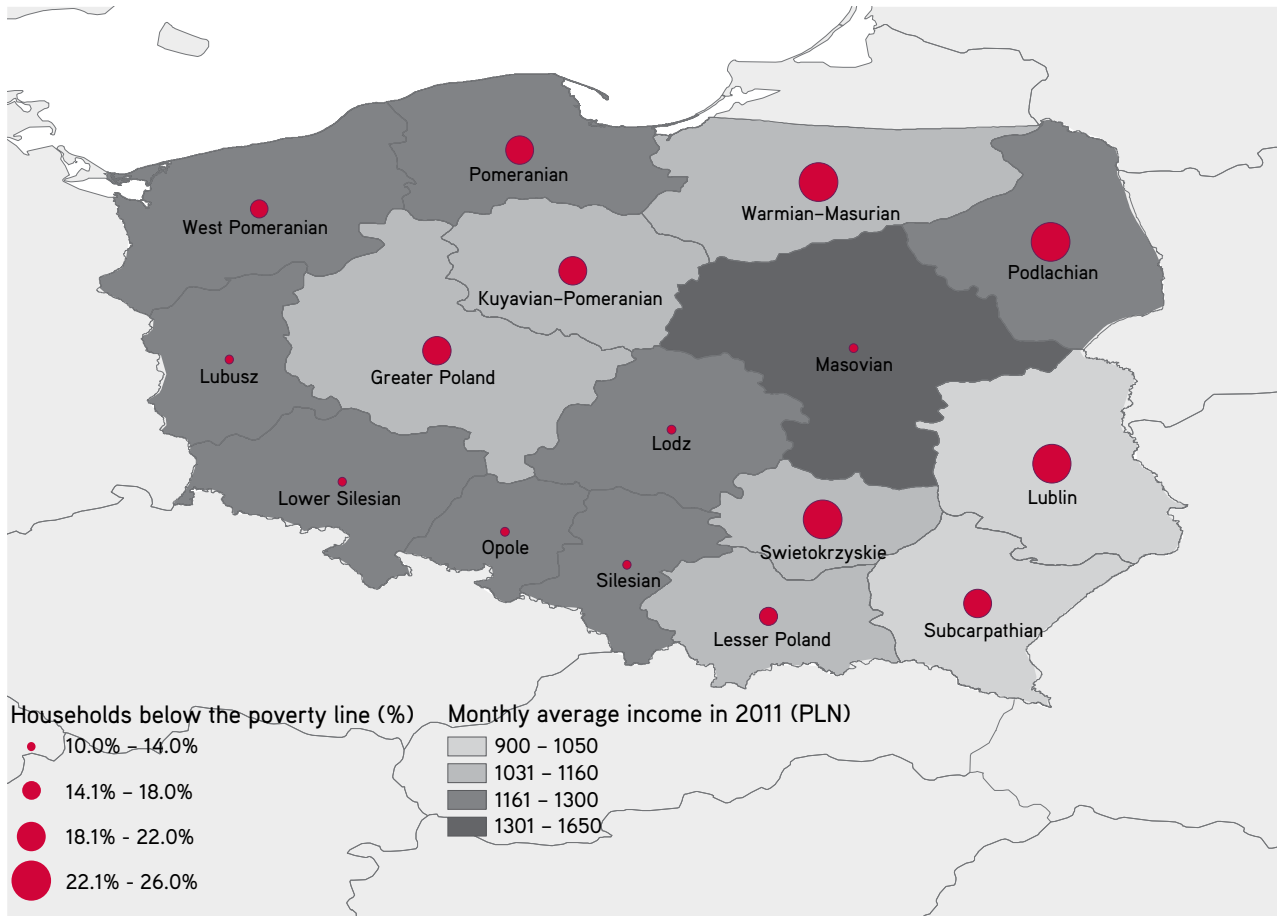
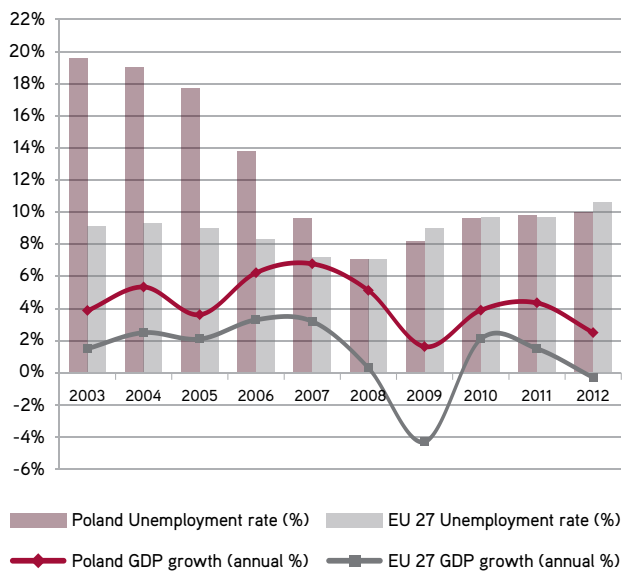


Figure 7. GDP growth and unemployment, Poland – EU comparison, 2003–2012

Source: Transcrime elaboration on The World Bank (2012a), Eurostat (2013), Central Statistical Office of the Republic of Poland (2013) data



- Because of the crisis, the **government's deficit more than doubled**, from 3.6% of GDP in 2008 to 7.9% in 2010. Public debt also increased, from 50.9% of GDP in 2009 to 54.9% in 2010. However, in 2011 the government started a fiscal consolidation (The World Bank 2012b, 2).
- Today, **corruption and exposure of the judicial system to political interference remain main obstacles** to more dynamic economic growth (Miller, Holmes, and Feulner 2012, 341). Until 2010, the public procurator general, the top prosecuting officer, was subordinated to the minister of justice (Krajewski 2012).
- To protect the judicial system from direct political influence, in 2010, **reforms separated the posts of the minister of justice and the procurator general**. The new approach has been in force only for a short time, but some aspects of the procuracy's functioning have already changed (Krajewski 2012, 79).

Table 1. Household tobacco expenditure by occupation, 2008

Source: Transcrime elaboration on Central Statistical Office of the Republic of Poland (2008) data

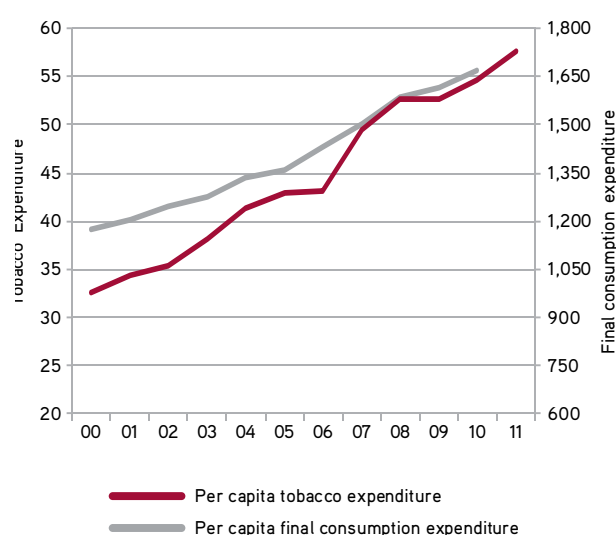
	Total	Manual labourers	Non-Manual employees	Farmers	Self-employed	Retirees	Pensioners
Average per capita expenditure: total consumer goods and services (PLN)	865.32	674.09	1,116.1	662.98	1,142.72	922.62	736.08
Average expenditure on tobacco products (PLN)	13.81	15.07	13.27	9.68	13.14	13.44	14.61
Incidence of tobacco products (%)	1.60	2.20	1.20	1.50	1.10	1.50	2.00

•• **Living standards are gradually converging to the European standards (The World Bank 2013).**

- **The average wealth level in Poland (US\$8,101)** is less than one fourth of the OECD average (US\$36,238) (OECD 2012f) and **the sixth lowest among EU Member States.**⁴
- However, **household expenditure has increased** by 41.4% from 2000 to 2010. 'Housing expenditures' and in particular 'electricity, gas and other fuels' are the highest household outlays, representing 24% and 8% of the total expenditure respectively (The World Bank 2012a).
- In the same period, expenditure on tobacco increased by 68.6% in absolute terms (Figure 8) but remained quite constant around 3.0% of total household expenditure (Euromonitor International 2012a; OECD 2012b). Since the price of tobacco has doubled between 2000 and 2010, the amount of purchased tobacco has actually decreased (Euromonitor International 2012a).
- **Lower-income households spend a larger share on tobacco products** than wealthier households do. Unskilled manual labourers (2.2%) and pensioners (2.0%) spend a higher percentage of their incomes on tobacco than non-manual employees (1.2%) and self-employed workers (1.1%) (Ciecierski, Cherukupalli, and Weresa 2011a, 42). The higher incidence of tobacco products is due to both lower total expenditure and to higher expenditure on tobacco (Table 1).

Figure 8. General household expenditure and household expenditure on tobacco products, trends comparison, 2000-2011, PLN current value

Source: Transcrime elaboration on The World Bank (2012a) and Euromonitor International (2012a) data



•• **Insufficient financing is the main problem of the health system (WHO 2009).**

- Health spending accounted for 7.0% of 2010 Polish GDP (latest available data). The OECD average in 2010 was 9.5%, and only Estonia, Mexico and Turkey allocated a lower share of their GDPs to health (OECD 2012g). Nevertheless, public health insurance covers 98% of the population (Boulhol et al. 2012, 8).
- In 2011, Poland allocated 10.2% of its public spending to health (Figure 9, p.26). The share of public spending on health is constant at around 72%, equal to the OECD average. It was 90% at the beginning of the 1990s (OECD 2012f; OECD 2012b; Boulhol et al. 2012, 8). The remaining 28% of health costs is covered by privates and accounts for 4.14% of households' total expenditure (OECD 2012c).

4. The ranking has been compiled by Transcrime on Eurostat Data 2013, taking 2011 data into account.

- The share of public spending on health is constant at around 72%, equal to the OECD average. It was 90% at the beginning of the 1990s (OECD 2012f; OECD 2012b; Boulhol et al. 2012, 8). The remaining 28% of health costs is covered by privates and accounts for 4.14% of households' total expenditure (OECD 2012c).
- Life expectancy at birth is 76.3 years, 3.5 years less than the OECD average of 79.8 years. Women are expected to live 8.5 years more than men; among OECD and key partner countries,⁵ only Estonia and Russian Federation have a higher gender inequality. The infant mortality rate fell from 56.1 deaths per 1,000 live births in 1960 to 5.0 deaths in 2010, and this ranks Poland 26th out of 34 OECD countries (OECD 2012f; OECD 2012b).⁶

•• **Public spending on education is low (OECD 2012f).**

- Poland spent 5.1% of its GDP on education in 2009 (below OECD average of 5.8%). The country ranks 23rd out of 31 OECD countries. World Bank data place Poland in 58th place out of 157 countries with expenditure equal to 2.9% of GDP. In 2005, the government allocated funds amounting to 5.5% of GDP, which was above the OECD average of 5.2% (OECD 2012d, 269-271). Private funds account for 18.9% of educational costs, which is 0.6% higher than the OECD average (OECD 2012d, 258).

•• **School participation and student skills are satisfactory (OECD 2012f).**

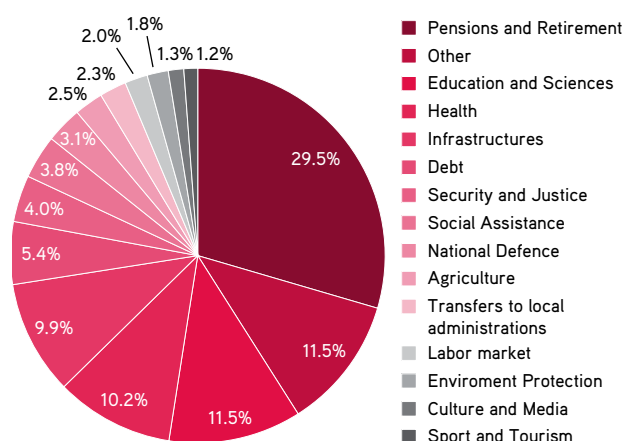
- **Polish students score above the OECD average for reading literacy, maths and sciences.** The Polish educational system's performances with respect to gender and social inequalities are in line with those of the OECD countries (OECD 2012f).

•• **Poland hosts several minorities.**

- In Poland there are **thirteen national and ethnic minorities**, totalling 253,273 people (2002 census) (about **0.7% of the total population**) (Ministry of the Interior 2007, 9).

Figure 9. Composition of 2011 total public spending

Source: Transcrime elaboration on Polish Government data collected by Bosak (2012)



Note: public pensions are the main public spending item and account for the bulk of redistribution on the expenditure side (Bastagli, Coady, and Gupta 2012).

- The Act on National and Ethnic Minorities and Regional Language recognises the following minorities:⁷

- as national minorities – Belarusians, Czechs, Lithuanians, Germans, Armenians, Russians, Slovaks, Ukrainians, Jews;
- as ethnic minorities – the Karaim, the Lemko, the Roma, the Tartars (Ministry of the Interior 2007, 8).

•• **Poland has a medium-low share of immigrants.**

- There were 827,453 people born abroad in 2010 (2.2% of the population). Poland ranks 139th out of 214 world countries (The World Bank 2012c). Since 2006, an average of 7,300 persons per year have applied for asylum, mostly from the Russian Federation and Georgia (UNHCR 2012).

Since the end of the socialist system, Poland has implemented social and economic reforms and become a high-income country. The Polish economy, stimulated by the reforms of the 1990s and by the EU accession process, has grown and diversified while maintaining a low inequality rate. Nevertheless, regional disparities persist, unemployment is problematic, and expenditure on health and education is low.

5. Brazil, China, India, Indonesia, Russian Federation, South Africa.

6. The ranking has been compiled by Transcrime on OECD Health Data 2012, taking the latest available year from 2008 to 2010 into account.

7. Act of 6 January 2005, Journal of Laws No 17, item 141, as amended.

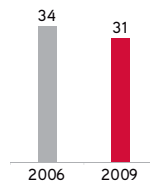
THE FIVE DRIVERS: LEGAL MARKET

***P**oland is a major global player in the tobacco market. The industry is changing and expanding under the influence of growing exports. As in most developed countries, tobacco consumption has generally declined and the market has entered a downtrading trend, with smokers switching to cheaper products. Nevertheless, smoking prevalence is still high, and increasing among women.*



Smokers

Current smoking of any tobacco product (age-standardised rate)
Source: WHO-Country reports



31%

30 out of 147 countries
(2009)



Last available data (2011): Daily smokers (18+) **29.8%** (Euromonitor International 2012)

Affordability

% of annual per capita income needed to buy 100 packs of the cheapest cigarettes
Source: Tobacco Atlas

2.6%

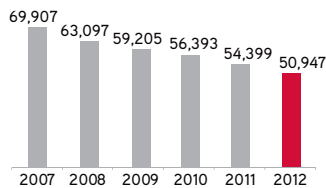
105 out of 168 countries
(2010)



Last available data (2012): **2.1%** (Euromonitor International 2012, International Monetary Fund 2012)

Market Size

Cigarette retail volume (mn sticks)
Source: Euromonitor International



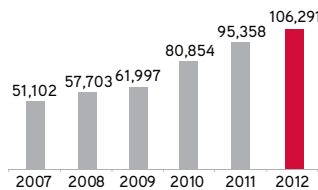
50,947

19 out of 209 countries
(2012)



Balance of Trade

Cigarette exports-imports (mn sticks)
Source: Euromonitor International



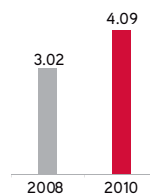
106,291

2 out of 72 countries
(2012)



Price

Price of a pack of the most sold brand (Int.\$, PPP)
Source: WHO



Int.\$, PPP 4.09

54 out of 166 countries
(2010)



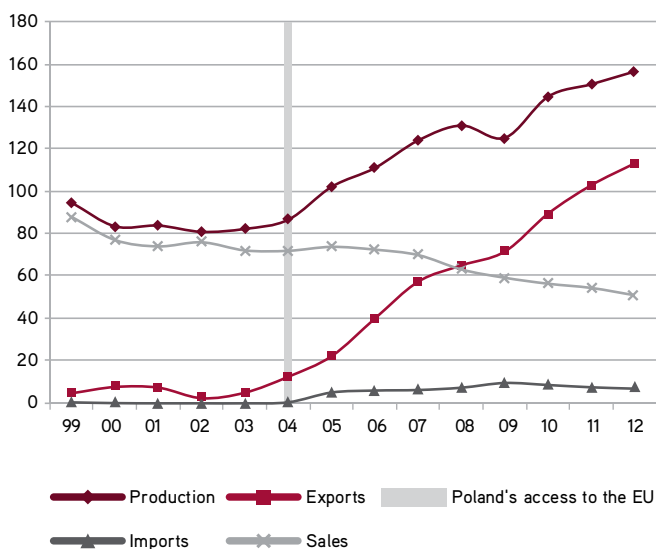
Last available data (2013): **Int.\$, PPP 6.04** (Łęczek and Himmel 2012, International Monetary Fund 2012)

POLISH TOBACCO MARKET

- **Poland is a major exporter of finished tobacco products.**
- In 2010, Poland exported 89.5 bn cigarettes. This figure makes Poland the **third exporter of tobacco products in the world** after Germany and the Netherlands (Eriksen, Mackay, and Ross 2012, 55). **The value of Polish cigarette exports is US\$1.58 bn** (The News 2012).⁸
- Poland has a positive balance of trade. Indeed tobacco exports exceed imports and the country ranks second out of 209 countries in 2012 (Euromonitor International 2013a).
- **Poland is the largest producer of finished tobacco products in Europe** (Niwserwis 2011, 6). Leading international tobacco companies have relocated their production facilities from Western Europe to Poland (Euromonitor International 2012b, 10).
- **The production of cigarettes increased by 90.3% between 2003 and 2012** reaching 157 bn sticks. In the same period sales decreased by 29.3% but **exports boomed**: from 5 bn cigarettes in 2003 to 113 bn in 2012 (Figure 10) (Euromonitor International 2013a).

Figure 10. Cigarette production, exports, imports and sales, 1999–2012, bn sticks

Source: Transcrime elaboration on Euromonitor International (2013a) data



8. Euro/US\$ European Central Bank exchange rate on 31.12.2012.

- **Poland is a net importer of raw tobacco.**

- **Poland's climate is not favourable to the cultivation of tobacco.** Farmers can set their cultivations in five regions of the South-East; these regions are listed in the Regulations of the Minister of Agriculture and Rural Development: Lubelsko-podkarpackie, Świętokrzysko-małopolskie, Kujawsko-pomorskie, Mazurskie, Dolnośląskie (WHO 2009, 37; Ciecierski, Cherukupalli, and Weresa 2011b, i).
- The political and economic transformation of the early 1990s caused a decline in the tobacco crop area, harvests and employment in tobacco cultivation (Figure 11, p.30) (Ciecierski, Cherukupalli, and Weresa 2011b, ii).
- The entry of foreign multinationals into the domestic industry imposed modernisation of the tobacco production and improvements in the quality of raw tobacco crops (Ciecierski, Cherukupalli, and Weresa 2011b, ii).
- The implementation of Council Regulation (EC) No 73/2009 of 19 January 2009⁹ determined a **deregulation of tobacco market** and a reduction of government support to national tobacco cultivation (Ministry of the Interior 2012, 182). The deregulation eliminated the national registry of contracts for the purchase of raw tobacco and of tobacco wholesalers and processing facilities (Ciecierski, Cherukupalli, and Weresa 2011a).
- The value of Polish raw tobacco in 2010 was US\$74.4 mn¹⁰ equal to 10.0% of the EU total (Pantini et al. 2012, 12). Owing to the low quality of domestic tobacco, **multinational manufacturers mostly rely on imported tobacco**. In 2010, for example, Poland imported raw tobacco for US\$112 bn (PLN333)¹¹ (Ciecierski, Cherukupalli, and Weresa 2011b, ii-vi).

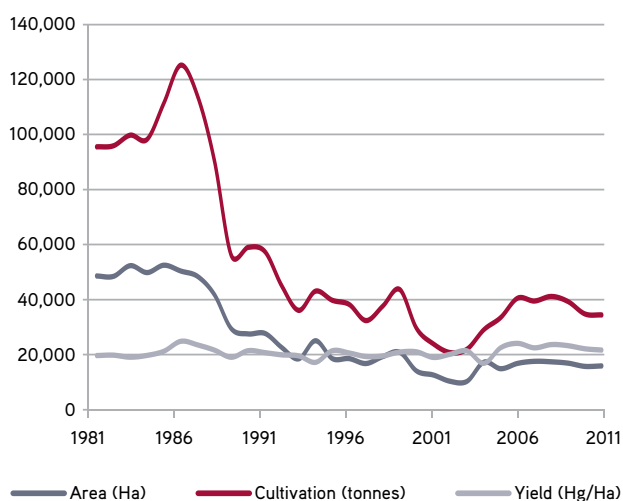
9. COUNCIL REGULATION (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003.

10. Euro/US\$ European Central Bank exchange rate on 31.12.2010.

11. PLN/US\$ European Central Bank exchange rate on 31.12.2010.

Figure 11. Tobacco cultivation, 1981-2011

Source: Transcrime elaboration on FAO (2012) data



•• **Employment in tobacco farming has declined over the past two decades (Ciecierski, Cherukupalli, and Weresa 2011b, ii).**

- Approximately 70,000 farmers cultivated tobacco in Poland in the 1980s. By the late 1990s, the number of farmers had fallen to about 40,000. In 2006, 14,000 tobacco farmers remained, with a ratio of about one full-time worker per plantation (Ciecierski, Cherukupalli, and Weresa 2011b, ii).

- However, Polish farms have a low level of mechanisation. Consequently, in addition to full-time farmers, their families and seasonal workers take part to the cultivation. Overall, 75,100 people were involved in the growing process in 2010; this value was the second highest in Europe behind Bulgaria (WHO 2009, 37; Pantini et al. 2012, 12-13).

- **Tobacco farms are small**, with an average area under cultivation of 1.19 ha (WHO 2009, 37).

•• **The value of the Polish tobacco market is US\$9 bn.**

- In 2011, the value of the Polish tobacco market was US\$8.92 bn. In the same year, the global tobacco market was worth US\$780.70 bn. In volume terms, Poland has the nineteenth largest tobacco market in the world (Deloitte 2012; Euromonitor International 2013a).

- Total turnover of the tobacco industry in 2009 was equal to € 5,180 mn.¹² Poland ranked fourth in the EU after Germany, UK and the Netherlands (Pantini et al. 2012, 22).

- Although per capita consumption of tobacco products is declining, in 2010 the top three tobacco companies altogether earned US\$60.97 mn¹³ (Euromonitor International 2012b).

- The value of tobacco sales increased by 26.2% in the period 2001-2012 because of the higher prices driven by increases in the taxation. This growth took place despite the lower cigarette sales volumes (-31.2% since 2001) (Euromonitor International 2013b).

•• **A large number of tobacco enterprises are active in Poland.**

- In 2009, 251 enterprises formed the EU's tobacco industry. In Poland, the industries numbered twenty-two and employed 6,548 people. Among the EU countries, only Germany has higher figures (Pantini et al. 2012, 19).

•• **The four main multinational companies lead the tobacco market in Poland.**

- Philip Morris Polska SA, Philip Morris International's (PMI) affiliate in Poland. PMI is the largest tobacco company in the world. It has a market volume share of over 30% in 36 markets. The headquarters of PMI are in Lausanne, Switzerland. PMI commercialises Polish bestseller brands like L&M, Marlboro, Red & White, and with a 37.9% volume share, it is market leader in Poland (sources: Ash, Company Annual Report, Euromonitor International).
- British American Tobacco Polska SA (BAT) is the second largest tobacco company in the world. BAT has its headquarter in the UK and sells its products in 180 countries. In 2011, it had a market volume share of 13% of the global market and 27% of the Polish one, holding second place. BAT entered the Polish tobacco market in 1991 (sources: Company Annual Report, Euromonitor International).

¹² Euro/US\$ European Central Bank exchange rate at 31.12.2009.

¹³ PLN/US\$ European Central Bank exchange rate on 31.12.2010.

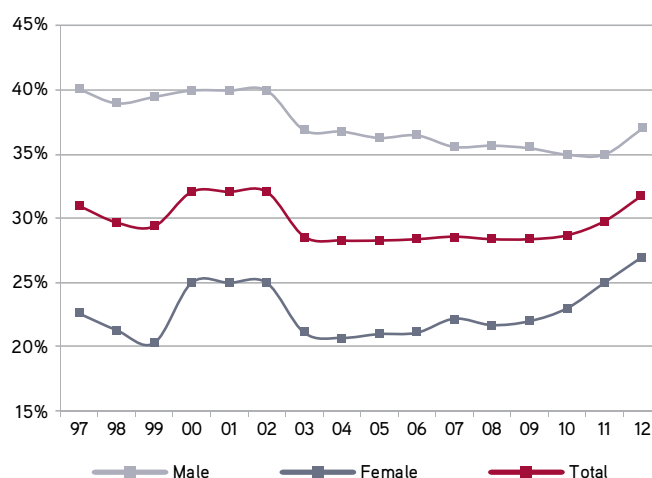
- Imperial Tobacco Polska SA (IT). In 2011, with a cigarette market share of 25% and a leading position in the smoking tobacco market, IT was the third largest operating company in Poland (Euromonitor International 2012b, 20). It is headquartered in Tarnowo Podgórne in Poznań County (sources: Ash, Company Annual Report, Euromonitor International).
- JTI Polska Sp. z o.o. is Japan Tobacco International's (JTI) affiliate in Poland. In 2011, its market share in Poland was 18.5% for ready-made cigarettes. Its best performing brands are LD and Camel (4.4% and 1.7% of the market respectively) (sources: Ash, Company Annual Report, Euromonitor International).
- **Independent small grocers constitute the key distribution channel in Poland (Euromonitor International 2012b, 32).**
- Independent small grocers are the primary points of sale and they account for 43.4% of cigarettes sales (Euromonitor International 2013a).
- Newsagent-tobacconists/kiosks are the second preferred category of points of sale, with a 20% share of cigarettes volume sales (Euromonitor International 2013a).
- Supermarkets/hypermarkets and discount stores account for 15.8% of sales of cigarettes, 5.3% of smoking tobacco (Euromonitor International 2013a).
- Tobacco specialists are the first distribution channel for smoking tobacco (50.0%) (Euromonitor International 2013a).
- Poland ranks second for the number of points of sale (140,000) among EU countries and it hosts 42.8% of tobacco wholesalers in the entire EU (Pantini et al. 2012, 31).

TOBACCO CONSUMPTION

- **Smoking prevalence remains high.**
- **The proportion of daily smokers among adults has been quite stable around 30%,** in the last fifteen years (Figure 12). In the past two years, the prevalence has increased (+10.8%) mainly due to **growth among women** (+17.4%) (Euromonitor International 2013a). In 2011, 1% of men and 2% of women smoked on a less than daily base (Zadrozna 2011, 10).
- The WHO estimated an age-standardised smoking rate for 2009 equal to 31.0% of the population. The country ranks 30th out of 147 countries (WHO 2012).
- In 2009, the average of smokers in the OECD and key partner countries (Brazil, China, India, Indonesia, Russian Federation, South Africa) was 22.1%, and only Turkey, Ireland, Chile, Russian Federation and Greece had a higher rate than Poland, positioning the country in sixth position out of forty (OECD 2011, 51).
- According to the WHO, adults smoke an average of 17.1 cigarettes per day, while the European Commission's estimate is 15.3. This value is the 12th highest in the EU (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010, 40; TNS Opinion & Social 2010, 30).

Figure 12. Smoking prevalence total and by gender, 1997-2012

Source: Transcrime elaboration on Euromonitor International (2013a) data

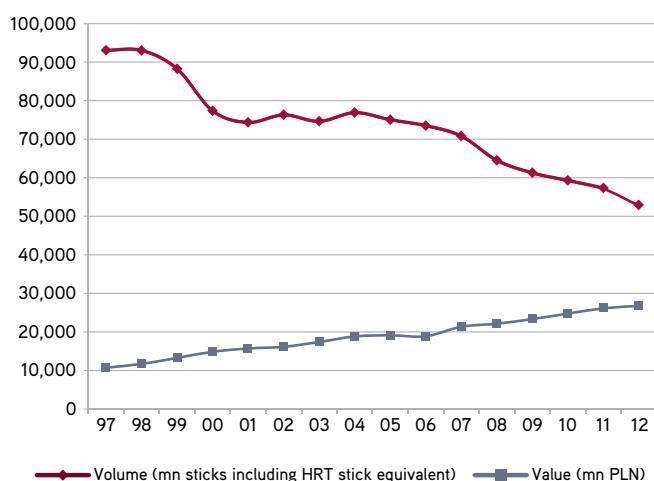


• Consumption volumes are decreasing.

- In 2012, consumers spent PLN26.9 bn to purchase tobacco products (97% for cigarettes). **Volume sales of tobacco products have contracted in the past ten years (-31.0%, 2002-2012). However, increasing prices (cigarettes +118.7%, 2001-2011) have pushed up the value of the market (+65.7%, 2002-2012)** (Figure 13) (Euromonitor International 2012a; Euromonitor International 2013a).
- The decrease in tobacco sales is due to the price growth caused by tax increases, growing awareness of the health risks of tobacco consumption, and the expansion of the illicit market (Euromonitor International 2012b, 27).

Figure 13. Retail tobacco market, 1997-2012

Source: Transcrime elaboration on Euromonitor International (2013a) data



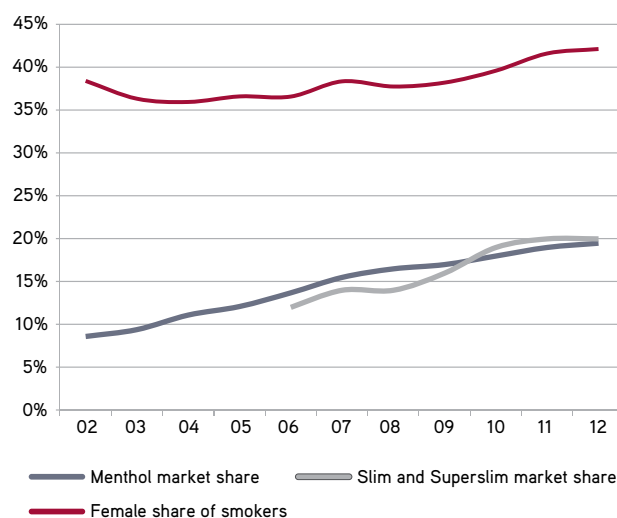
• Smoking prevalence is high but health awareness is increasing.

- Health concerns and healthy behaviours have increased because of higher consumer education and anti-smoking campaigns (Ciecierski 2007, 2; Euromonitor International 2012b). Nevertheless, cigarette smoking continues to be popular and socially accepted (Zatonski 2003; Ciecierski 2007, 2).
- Polish smokers choose lower tar and lower nicotine versions of their preferred brands, considering them less harmful. Among the various types of cigarettes, ultra-low tar experienced the smallest sales decline in 2011 (-2%) (Euromonitor International 2012b, 28).

- In 2012, menthol cigarettes had a market share of **19.5%**. The popularity of these flavoured cigarettes has constantly increased in the past 15 years together with the share of the smoking population made up of women. The diffusion of slim and super slim cigarettes is increasing as well (Figure 14). These cigarettes account for around 20% of the market volume (Euromonitor International 2012b, 35; Euromonitor International 2013a).

Figure 14. Slim and menthol cigarette market shares, comparison with female smoking prevalence, 2002-2012

Source: Transcrime elaboration on Euromonitor International (2013a) data



• Cigarettes are expensive in Poland.

- In 2013, a **20-cigarettes pack of the most popular brand costs PLN12.20 (US\$3.92, Int.\$6.04)**, 5.2% more than in 2012. The selling price for a 20-sticks pack of Marlboro, the premium best seller, is PLN12.50 (US\$4.02) (in 2012, it was PLN11.90, +5.0%). The selling price of Red & Whites, the leading brand of economy cigarettes, is PLN10.60; PLN0.80 more than in 2012 (Euromonitor International 2012a; Łęczek and Himmel 2012).¹⁴
- In 2010, the price of the most sold brand expressed in International\$ was 4.09. At that time, 4.09 was the 54th highest price among the 166 recorded by the WHO (2011a).

14. PLN/US\$ European Central Bank exchange rate on 31.03.2012 and 31.12.2009.

Table 2. Sales of tobacco by category: volume 2005-2012

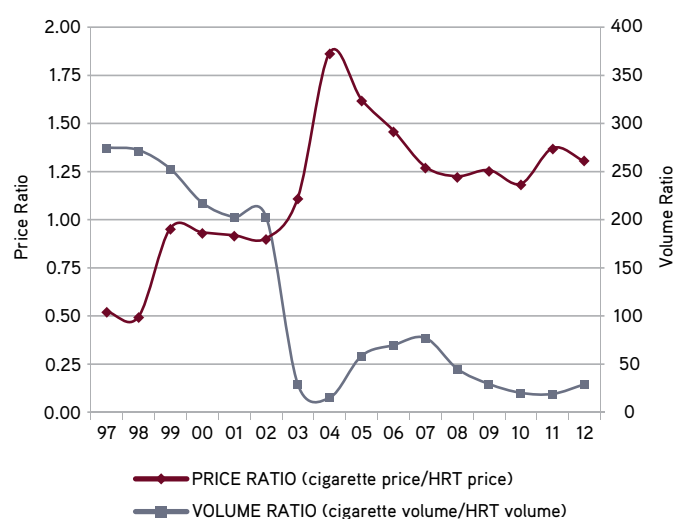
Source: Transcrime elaboration on Euromonitor International (2012a; 2013a) data

	2005	2006	2007	2008	2009	2010	2011	2012
Cigarettes (mn sticks)	73,787,000	72,469,000	69,907,000	63,096,600	59,205,400	56,393,400	54,398,800	50,946,900
Cigars (mn units)	6.8	8.2	9.3	10.3	11.6	13.1	14.2	15.3
HRT (tonnes)	1,275.8	1,051.3	915.0	1,421.9	2,068.9	2,898.5	2,753.6	1,789.9

- In Poland, retailers can sell tobacco products at prices higher than the suggested retail prices. It is forbidden to sell tobacco products at a price lower than that the one printed on the packaging (Euromonitor International 2012b, 8).
- **2.55% of the per capita GDP** is needed to purchase **100 20-packs of Marlboro** (105th position out of 168 countries) (Eriksen, Mackay, and Ross 2012). Within the EU, **Poland ranks sixth out of 27 EU Member States** for the affordability of a pack of Marlboro (Eriksen, Mackay, and Ross 2012; PMI 2013).
- **In recent years, consumers have shifted to less expensive products as a result of price increases (Table 2) (Euromonitor International 2012b).**
- Rising cigarette prices continue to fuel demand for alternative tobacco products (downtrading) as most price-sensitive consumers, like low-income people and heavy smokers, are no longer able to afford ready-made cigarettes. As a result, there is growing interest in HRT and, during 2012, in green leaves (Table 2) (Euromonitor International 2012b, 60).
- **Differences in tax incidence among tobacco products lead to substitution among the products themselves** (Chaloupka et al. 2000). In fact, cigarette tax increases have induced some smokers to switch from manufactured cigarettes to HRT (Figure 15) (WHO 2010).
- In 2012, a large number of consumers switched from HRT to tobacco's green leaves causing a contraction of HRT market (Table 2). Green leaf was the cheapest way of smoking in Poland because it was not subject to any excise duty. It was sold as unprocessed tobacco exploiting a tax loophole which was closed in January 2013 (KPMG 2013, 155).

Figure 15. Consumer switch to HRT in response to cigarette price increases, 1997-2012 price and volumes relationship

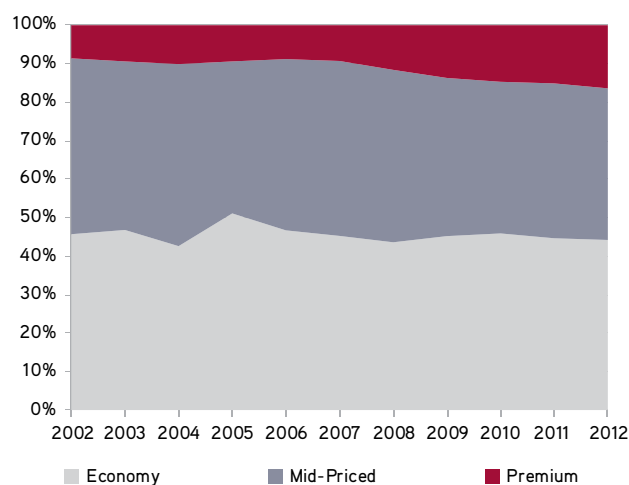
Source: Transcrime elaboration on Euromonitor International (2012a) data



- Nonetheless, because also HRT is subject to rising taxation, the market **penetration of illicit products has increased** (Euromonitor International 2012b, 60).
- The major tobacco companies are adapting to the downtrading by expanding the range and quality of their HRT products. According to experts, the retail volume of HRT will rise to 3,700 tonnes by 2016 (Euromonitor International 2012b, 60).
- Companies commercialise brands specifically targeted to customers looking for cheap products such as the ironic "*Brezobotne – The Unemployed Cigarette*" (Ciecierski 2002). However, downtrading, in Poland, is mainly among different products and illicit cigarettes and not among cigarettes of different price bands (Figure 16, p.34).

Figure 16. Selling shares according to price bands, 2002-2012 volume time series

Source: Transcrime elaboration on Euromonitor International (2012a; 2013a) data



- Poles smoke cigars, pipes and water-pipes mainly occasionally. The market for these products is expected to continue increasing in volume and value in the next few years (TNS Opinion & Social 2010).

• **Various socio-demographic and economic variables play a significant role in determining the demand for tobacco.**

- **Place of residence** (Figure 17). Smoking prevalence is higher in the South (31.3%) and in the Central area of the country (29.0%). The eastern part records the lowest smoking prevalence (21.3%) (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010).
- Smoking prevalence is higher in the cities (28.6% of daily smokers) than in rural areas (24.4%) (Figure 18). In particular, the cities with 50,000-200,000 inhabitants have the highest prevalence of daily smokers (32.3%). The phenomenon of occasional smoking is more widespread in cities with more than 200,000 inhabitants (4.8% of the population) (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010).

Figure 17. Daily smoking prevalence per area, 2009/2010

Source: Transcrime elaboration on GATS Poland (2010) data

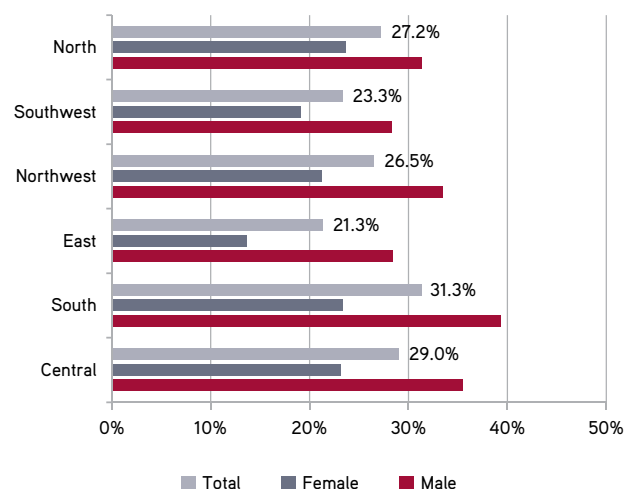
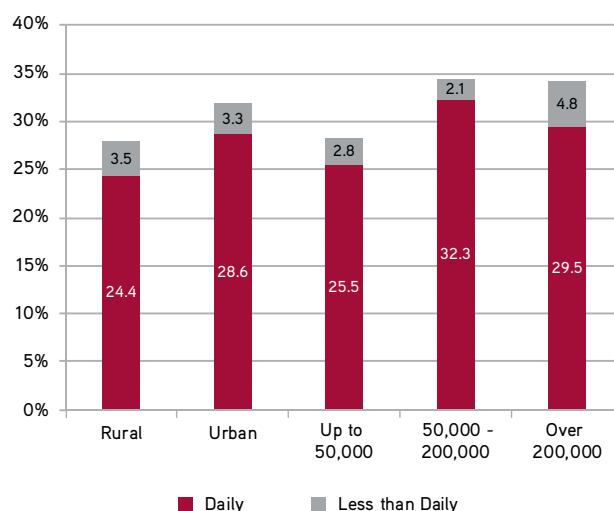


Figure 18. Comparison between urban and rural areas. Daily smoking prevalence (%), 2009/2010

Source: Transcrime elaboration on GATS Poland (2010) data



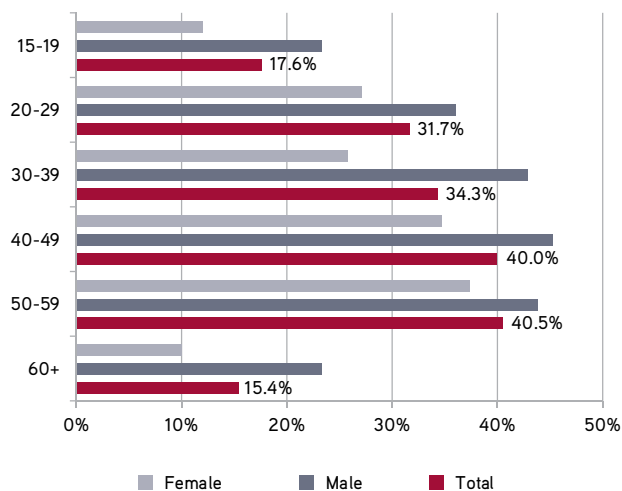
- **Gender. Men smoke more than women** in terms of both prevalence (33.5% vs. 21.0%) (WHO 2011a) and quantity (18.31 sticks per day against 15.51) (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010, 86). These differences are more evident in rural areas (32.1% vs. 16.8%) than in cities (34.4% vs. 23.5%) (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010, 83). Men's prevalence is the third highest among OECD countries, (fourteenth for women) (OECD 2012a).¹⁵

¹⁵ The ranking has been compiled by Transcrime on OECD Health Data 2012, taking the latest available year from 2006 to 2010 into account.

- Time series show that the gender **differences in prevalence are tailing off**. Between 2006 and 2012, the male prevalence has been stable (+1.4%), while the female prevalence increased by 28.0% (Euromonitor International 2013a).
- Age**. Prevalence among Poles aged between 40 and 49 (40.0%) and between 50 and 59 (40.5%) is higher than in the rest of the population (Figure 19). The average age at which a person starts smoking is nineteen, but the share of smokers beginning before they turn eighteen is more than 50% (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010; European Commission 2012b). Males start to smoke earlier than females and people in bigger towns earlier than people in villages (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010).

Figure 19. Smoking prevalence by age

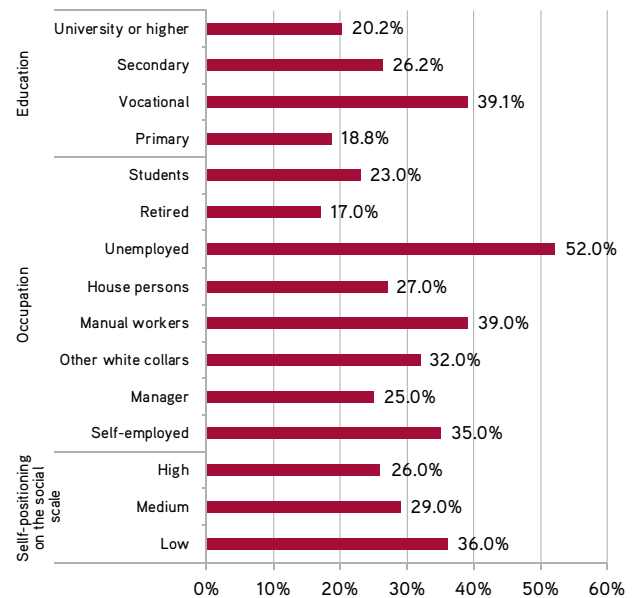
Source: Transcrime elaboration on GATS Poland (2010) data



- Social groups**. Income and social status strongly influence Polish smoking rates. Less educated and less affluent people smoke more than better educated and wealthier people (Figure 20) (Euromonitor International 2012b, 3).

Figure 20. Smoking prevalence by educational level, occupation and social status, 2010

Source: Transcrime elaboration on GATS Poland (2010) and TNS (2010) data



In conclusion, the tobacco market is an important sector of the Polish economy and its exports. Prices of cigarettes are high in Poland, especially when compared with those in neighbouring countries to the East. Over the past few years, cigarette consumption has declined in favour of less expensive products as a result of large tax increases.

THE FIVE DRIVERS: REGULATION

Tobacco control in Poland is medium. There is a medium-low level of supply chain control, a medium-high level of control on tobacco consumption and a medium level of control on sales, advertising and promotion. Agreements between OLAF and the main stakeholders are crucial in regulating the industry. Tax incidence on tobacco products is among the highest in the world. The country has a low per capita level of expenditure on tobacco control policies.

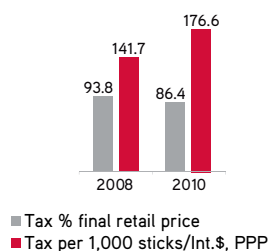


Taxation

Tax as % of the final retail price of the most sold brand

Tax per 1,000 sticks in Int.\$, PPP of the most sold brand

Source: WHO



86.4 %

2 out of 181 countries

Int.\$, PPP 176.6

29 out of 164 countries
(2010)

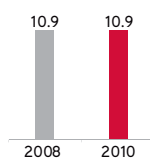


Last available data (2013): **84.6% – Int.\$, PPP 255.5** (European Commission)

Government Action

Government expenditure on tobacco control not including the control on the ITTP per 1,000 inhabitants (US\$)

Source: WHO–Global Tobacco Epidemic



US\$ 10.9

56 out of 106 countries

(last available year)



Tobacco Supply Control*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



2/5 points

(2013)

Tobacco Consumption and Sale Control*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



4/5 points

(2013)

Tobacco Marketing and Promotion*

Composite indicator measuring the presence of specific policy measures in the country

Source: Transcrime elaboration



3/5 points

(2013)

* The indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

•• **Poland has a weakly regulated tobacco market.**

- In 2010, Poland ranked **19th among 31 European countries on the Tobacco Control Scale (TCS)**. It had lost 5 positions since 2007, reflecting a lack of activity in the period (Joossens and Raw 2011, 8).¹⁶ This occurred despite the fact that in 2007 the government launched the “National Tobacco Control Action Plan” for the period 2007-2015 (WHO 2009, 51).
- **The World Health Organisation has stressed some weaknesses in Poland’s regulations** and policies concerning smoke-free environments and warning labels (WHO 2011b, 100).¹⁷
- However, when considering Central and Eastern Europe, Poland has one of the most stringent tobacco control environments (Ciecierski 2007).

•• **The Polish regulation must comply with EU and international requirements and standards.**

- Since 15 September 2006, **Poland has been a Party to the WHO Framework Convention on Tobacco Control**, an international treaty establishing a number of obligations for countries (WHO 2011c). As a Member State of the EU, **Poland must implement EU legislation** (Ciecierski, Cherukupalli, and Weresa 2011a, 16). Since the EU’s competence in the field of health is limited, most EU provisions focus on the tobacco market and the development of a common market among the 27 EU Member States. These measures affect taxation,¹⁸ manufacture and distribution¹⁹ and advertising,²⁰ thus also influencing health issues and tobacco control (Transcrime 2011a).

16. The TCS was developed to assess the level of national regulations in regard to the six tobacco control policies identified by the World Bank, comprising higher taxation of tobacco products, bans in public and work places, bans on advertising and promotion, consumer awareness, warning labels, and quitting help (World Bank 2011).

17. The WHO report is based on the MPOWER package of measures developed by the WHO. MPOWER is an acronym of the six policy measures which include: monitor tobacco use and prevention policies; protect people from tobacco smoke; offer help to quit tobacco use; warn about the dangers of tobacco; enforce bans on tobacco advertising, promotion and sponsorship, and raise taxes on tobacco (WHO 2008).

18. With respect to taxation, Directives 2008/118/EC and 2007/74/EC provide a general framework on taxation; Directives 92/79/EEC, 92/80/EEC, 95/59/EC specifically concern tobacco products (Transcrime 2011a, 6).

•• **Important requirements regard bans on products.**

- In 2004, with Poland’s accession to the EU, the Government banned the selling of cigarettes with tar levels higher than 10mg (Euromonitor International 2012b, 5).
- **The European Commission is working on legislation to ban menthol**, other flavoured cigarettes and slim cigarettes. According to the EC, young people, notably young women, find these products particularly attractive. If approved, the proposal is expected to be adopted in 2014, and would come into effect in 2015 (Nikolas 2012; Polskie Radio 2013; Mardosz 2013).
- Poland manufacturers produce as much as 40% of all EU menthol cigarettes. This ban could have a major negative impact on the tobacco industry and the government’s budget (Mardosz 2013). For this reason, a spokesman of the Health Ministry has declared that Poland will not support the draft directive on tobacco (Polskie Radio 2013; Londynek 2013).

•• **Taxation is high.**

- For a number of years, Poland has pursued a tobacco control tax policy with yearly **excise duty rises exceeding inflation** (WHO 2009, 36). Increased taxation has been associated with falling rates of smoking (Ciecierski 2007).
- **Duty on cigarettes has increased to 84.61% of the final price on 1 January 2013** (European Commission 2013). According to the Ministry of Finance, the average increase in the retail price of a pack of twenty cigarettes is PLN0.60 (Polskie Radio dla Zagranicy 2012). It follows that the amount of total taxes per 1,000 sticks in International \$-PPP is 255.5 (PLN188.0). In 2010, it was 176.6 (29th worldwide) (Table 3, p.40) (WHO 2012; European Commission 2013).

19. Directive 2001/37/EC regulates manufacture and distribution in the EU. In addition, Council Recommendation 2003/54/EC of 2 December 2002 invites EU Member States to further restrict or prohibit the sale of tobacco products to minors (Transcrime 2011a, 6).

20. The EU regulation concerning advertising is laid down by: Directive 2010/13/EU – for audiovisual media services, including television advertising; Directive 2003/33/EC – for other types of advertising (Transcrime 2011a, 6).

Table 3. Poland's taxation on finished cigarette variations, June 2000–January 2013

Source: Transcrime elaboration on Ciecierski et al. (2011a) and European Commission – Directorate General Taxation and Customs Union Tax policy data

Year	Unit of Measurement	2000	2000	2001	2002	2003	2004	2004	2005	2006
Month		June	October	January	January	January	January	May	January	January
VAT	% of price	22%	22%	22%	22%	22%	22%	22%	22%	22%
Specific Tax	PLN per 1,000 cigarettes	37.50	42.00	50.00	52.00	57.00	64.00	64.00	68.38	75.12
Ad valorem Tax	% of price	25.0%	25.0%	25.0%	25.0%	25.0%	25.0%	26.7%	28.5%	31.3%
Year	Unit of Measurement	2007	2008	2008	2009	2009	2010	2011	2012	2013
Month		January	January	July	January	March	January	January	January	January
VAT	% of price	22%	22%	22%	22%	22%	22%	23%	23%	23%
Specific Tax	PLN per 1,000 cigarettes	80.87	91.00	91.00	99.16	138.50	146.83	158.36	170.97	188.0
Ad valorem Tax	% of price	33.7%	37.9%	37.9%	41.3%	31.4%	31.4%	31.4%	31.4%	31.4%

40

- In 2010, Polish tax incidence accounted for 86.4% of the final retail price of the most sold brand (second place after Bulgaria out of 181 countries analysed by the WHO) (Figure 22, p.41) (WHO 2011d; WHO 2011c, 100).²¹ Today Polish taxes as shares of cigarette prices are the fifth highest among EU member states (European Commission 2013).
- **Tax incidence of cigarettes has grown by 19.0% since Poland joined the EU** in 2004, but it has decreased by 13.3% since the peak of March 2009, when the tax incidence was 97.62% (Figure 21, p.41 and Table 3) (European Commission 2013).
- The EU requires a minimum of €90 of taxes per 1,000 cigarettes by January 2014. Poland and other recent EU members must impose this minimum tax by 31 December 2017 (Ciecierski, Cherukupalli, and Weresa 2011a).
- On January 2013, the Polish government amended the Act of 6 December 2008 on excise duty (Journal of Laws of 2011, no.108) and introduced duties on the consumption of green leaves (see box *Green leaf*).

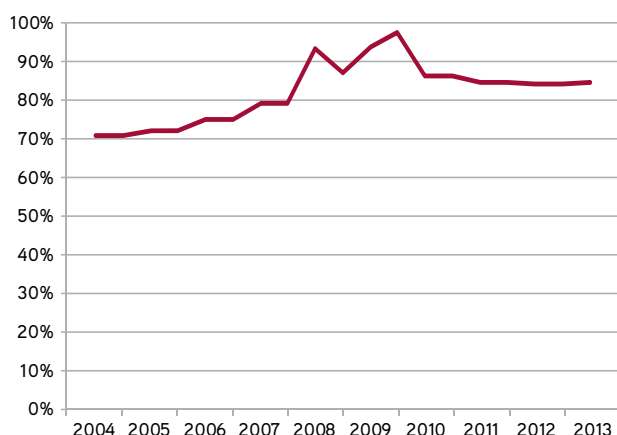
GREEN LEAF

During 2012, a relevant share of consumers of HRT shifted to green leaf because of its lower price. For 2012, KPMG estimated green leaf to account for the equivalent of over six bn cigarettes. According to industry sources, in 2012, green leaf accounted for the 7% of the entire tobacco market. Before the amendment of the law, the product was sold as unprocessed tobacco without paying any excise duty. It was possible to legally purchase green leaf online and from corner shops (PMPL 2012; KPMG 2013, 155).

²¹ The most recent data from the EU Commission show that all taxes applied to cigarettes, including value added tax, represent 84.61% of the weighted average price (WAP) (European Commission 2013). According to Article 2 of Council Directive 92/79/EEC "The weighted average retail selling price shall be calculated by reference to the total value of all cigarettes released for consumption, based on the retail selling price including all taxes, divided by the total quantity of cigarettes released for consumption" (European Commission 2013, 5). Poland occupies the second position among EU Member States with highest tax percentage of the WAP.

Figure 21. Tax incidence on cigarettes, Weighted Average Price, 2004-2013

Source: Transcrime elaboration on the European Commission – Directorate General Taxation and Customs Union Tax policy data



•• **Taxes on tobacco products account for a high share of revenues from excise duties.**

- Revenues from tobacco accounts for 32% of total revenues from excise duties. The revenues from tobacco taxation increased by 35.7% between 2006 and 2011 (Figure 22) (Ministry of Finance 2012a, 9).

•• **Government investments in tobacco control policies are exiguous.**

- Joossens and Raw remark that **state funding for tobacco control remains very low** (2011, 9). According to government data, the tobacco control budget for Poland amounted to PLN1 mn (approximately US\$350 thousand),²² corresponding to approximately US\$0.011 per person.²³ Poland's expenditure per person is the 56th in the world²⁴ (WHO 2011a; Joossens and Raw 2011, 6).

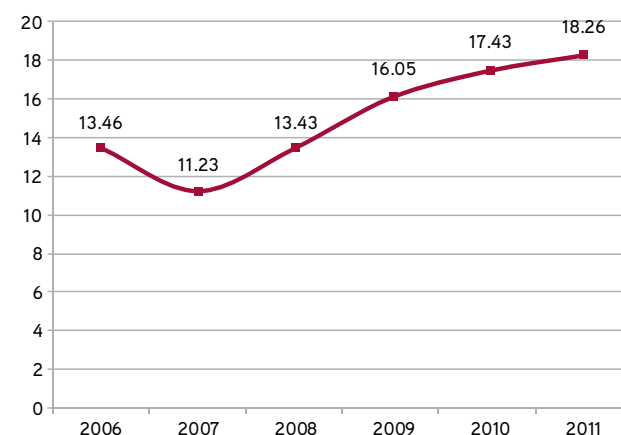
22. PLN/US\$ European Central Bank exchange rate at 31.12.2009.

23. The figure included "funding at national level (for federal countries the sum of all funding by governments of the different regions, but not of the local communities) in 2009 for mass communication campaigns, tobacco control projects, educational programs, support for non-governmental organizations. Tobacco control spending from sources other than the government, such as the private sector, is not included in our figure. Funding for tobacco dependence treatment (including reimbursement of medications and quit-lines) and enforcement of legislation are not included" (Joossens and Raw 2011, 6).

24. The ranking has been compiled by Transcrime on WHO Country Reports 2010 data.

Figure 22. Revenues from excise duties on tobacco products, PLN mn, 2006-2011

Source: Transcrime elaboration on Ministry of Finance (2012a) data



- The provisions of the Act on Protection of Health against the Consequences of the Use of Tobacco and Tobacco Products specify that Poland should use 0.5% of budgetary revenue from the excise duty on tobacco products to fund the implementation of programmes to reduce the health-threatening consequences of tobacco smoking. Transfers to the Chief Sanitary Inspector are actually much lower (WHO 2009, 51).

•• **Poland has a medium-low level of supply chain control (2 points out of 5, Table 4).**

Table 4. Regulation on supply chain control in Poland

Source: Transcrime elaboration

Supply chain control indicator	Value
1) The retail of tobacco products subject to licensing	0 points
2) The manufacture of tobacco products is subject to licensir	1 point
3) There is a mandatory system of customer identification and verification applied to the supply chain of tobacco products	0.5 points
4) There is a tracking and tracing system for tobacco products	0.5 points
5) Absence of free-trade zones for tobacco products	0 points

Note: the indicator should not be interpreted as if a higher score is always better than a lower score. Its purpose is rather to synthesise the intensity of policy measures in a specific field.

- **The retail sale of tobacco products does not require a licence in Poland.** However, all entrepreneurs must enrol on the National Court Register (Law no.168 of 2007 and Law no.155 of 2007) or on the Central Register of Business Activity (Law no.173 of 2004). Despite the licence, the activity can be limited, sanctioned or prohibited due to infringement of criminal or civil legislation according to Article 855 of Law no.100 of 1931 that regulates the selling of tobacco products (point 1 in Table 4, p.41).
- **The manufacture of tobacco products is subject to licensing.** Law no.251 of 2007 and Law no.59 of 2009 regulate the manufacture of tobacco products. Laws require manufacturers to enrol on PKD Polska Klasyfikacja Działalności, the register of regulated activities (point 2 in Table 4, p.41).
- **No Polish law requires mandatory customer identification and verification for the tobacco products' supply chain.** However, agreements between the main tobacco manufacturers and OLAF (European Anti-Fraud Office) have introduced such measures. These agreements bind the industry to support measures such as "know your customer", "know your payments", and volume controls/monitoring (point 3 in Table 4, p.41) (European Commission 2004; European Commission 2007; European Commission 2010a; European Commission 2010b).
- **Polish law does not require any tracking and tracing system for tobacco products.** However, the EC has signed legally binding and enforceable agreements with the main tobacco manufacturers to combat the ITTP. For this reason, the main Polish tobacco industries have a track and tracing system (point 4 in Table 4, p.41) (European Commission 2004; European Commission 2007; European Commission 2010a; European Commission 2010b).
- **Poland has 14 designated free trade zones** (Ministerstwo Gospodarki 2012; Worldwide Tax 2012). **None of them is on the list of problematic FTZ** (henceforth FTZ) (point 5 in Table 4, p.41) (BASCAP 2012).

•• **Tobacco consumption and sales are medium-high regulated in Poland (4 points out of 5, Table 5).**

- **Smoking bans and restrictions are widespread.** In November 2010, the Polish government introduced a ban on smoking in all of the eight categories of public places identified by the WHO. Effectiveness of the smoking ban seems to vary according to the different free smoking areas (Table 6, p.43) (points 1 and 2 in Table 5).²⁵

Table 5. Regulation of tobacco consumption and sales in Poland

Source: [Transcrime elaboration](#)

Tobacco consumption and sales indicator	Value
1) Ban on smoking in public places	0.5 points
2) Ban on smoking in workplaces	0.5 points
3) Ban on the sale of tobacco products from vending machines	1 point
4) Prohibition of tobacco sales to minors	1 point
5) Ban on smoking in bars, cafés and restaurants	1 point

Note: the indicator should not be interpreted as if a higher score is always better than a lower score. Its purpose is rather to synthesise the intensity of policy measures in a specific field.

- The law allows for the establishment of special smoking rooms in all of the above-mentioned places, with the exception of healthcare facilities and educational institutions (Euromonitor International 2012b, 6). Moreover, institutions such as the WHO and the Chief Sanitary Inspectorate underline the lack of enforcement of the law (WHO 2011a; Zadrożna 2011).

²⁵ The places assessed are healthcare facilities, educational facilities other than universities, government facilities, indoor offices and workplaces not considered in any other category, restaurants or facilities that serve mostly food, pubs and bars or facilities that serve mostly beverages (not applicable where alcohol serving is illegal) and public transport (WHO 2011e, 100).

- **There is a ban on the sale of tobacco products from vending machines.** Article 6 of Law *for the Protection of Public Health against the Effects of Tobacco Use* of 1995 (point 3 in Table 5, p.42).
- The sale of tobacco products is restricted to people aged eighteen years and above. Article 6 Law *for the Protection of Public Health against the Effects of Tobacco Use* of 1995 (point 4 in Table 5, p.42).
- **Smoking bans also apply to restaurants, bars and pubs.** The owners and operators of bars, cafés and restaurants with two or more separate rooms can designate one of them as a smoking room (point 5 in Table 5, p.42) (Euromonitor International 2012b, 6).

Table 6. Perception of smoking incidence in free smoking areas, February 2011 Survey

Source: Transcrime elaboration on TNS (2011)

	Smokers		Non-Smokers	
	Men	Women	Men	Women
Workplaces	14%	6%	14%	7%
Bars and Pubs	18%	10%	20%	15%
Restaurants	7%	3%	5%	6%
Discos and Clubs	14%	16%	16%	15%
Shopping Centres	3%	1%	3%	2%
Cultural Facilities	2%	1%	3%	1%
Educational Institutions	6%	3%	9%	5%
Healthcare Facilities	5%	4%	2%	4%
Public Office	4%	3%	2%	2%
Bus Stops	41%	38%	43%	40%
Public Transport	6%	6%	4%	3%
Sport Facilities	13%	7%	12%	4%

- **Regulation of tobacco marketing and promotion is medium in Poland (3 points out of 5, Table 7).**

Table 7. Regulation on tobacco marketing and promotion in Poland

Source: Transcrime elaboration

Tobacco marketing and promotion indicator	Value
1) Ban on tobacco sponsorship and advertising in radio, TV, broadcasted programmes and print media	1 point
2) Ban on billboards and outdoor advertising	1 point
3) Ban on the display of tobacco products at points of sale	0 points
4) Ban on free distribution of tobacco samples	1 point
5) Mandatory pictorial health warnings	0 points

Note: the indicator should not be interpreted as if a higher score is always better than a lower score. Its purpose is rather to synthesise the intensity of policy measures in a specific field.

- **Nearly all forms of tobacco advertising and sponsorship are prohibited** (Article 8 of Law *for the Protection of Public Health against the Effects of Tobacco Use* of 1995), including billboards, TV and radio and printed media advertising (WHO 2011d). The tobacco product advertising ban does not extend to international newspapers and magazines (WHO 2011a) (points 1 and 2 in table Table 7).
- **There is no ban on the display of tobacco products at points of sale.** Law *for the Protection of Public Health against the Effects of Tobacco Use* bans only the display of imitations of tobacco products packages (point 3 in table Table 7).

- Article 2 and Article 8 Section 9 of Law *for the Protection of Public Health against the Effects of Tobacco Use* of 1995 prohibit the free distribution of tobacco products. The promotion of tobacco products is banned. The Law explicitly mentions the free distribution of tobacco products in its definition of the promotion of tobacco products (point 4 in table Table 7, p.43).
- **Tobacco product packaging does not carry pictorial health warnings** (WHO 2011a, 4; Euromonitor International 2012b, 3). Poland has ratified the EU Directive 2001/37/EC, so that packages of tobacco products show verbal health warnings (point 5 in table Table 7, p.43) (WHO 2011a, 4; Euromonitor International 2012b, 3).

In conclusion, Poland has a medium regulation of the tobacco market, with particularly high tax incidence of tobacco products. There is a medium-low level of control on the supply chain; there is a medium level of control on tobacco consumption and sales, and a medium-high one on marketing and promotion. Agreements between OLAF and the major tobacco companies are crucial for regulating the sector. Polish free trade zones function well.

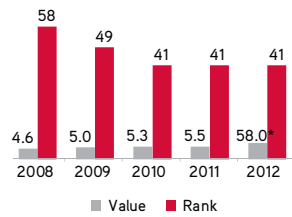
THE FIVE DRIVERS: CRIME ENVIRONMENT

Poland is a safe country with low levels of crime. Corruption and informal economy are generally moderate. Drug use is low with respect to the overall population, higher among students. A growing number of organised crime groups are active in the country.



Corruption

Corruption
Perception Index
Source: Transparency
International



58.0*

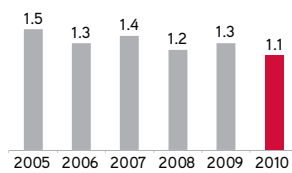
41 out of 176 countries

(2012)



Homicides

Homicide rate per
100,000 inhabitants
Source: UNODC



1.1

158 out of 187 countries

(last available year)



Organized Crime Index

Composite Organized
Crime Index
Source: Van Dijk (2008),
"The World of Crime"

52.4

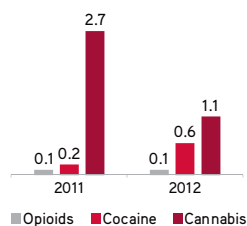
65 out of 156 countries

(last available year)



Drugs

Annual prevalence of
opioids (18–64), cocaine
and cannabis (18–64) use
Source:
UNODC–World Drug Report



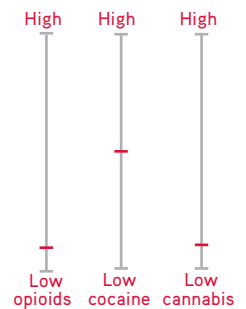
opioids **0.1**
cocaine **0.6**
cannabis **1.1**

opioids: 108 out of 132 countries

cocaine: 47 out of 99 countries

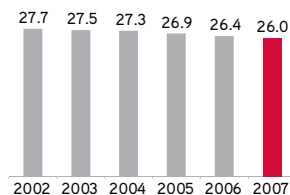
cannabis: 113 out of 139 countries

(last available year)



Shadow Economy

Indicator of the presence of
market-based
activities that escape the
official estimates of GDP
Source: Schneider, Buehn,
Montenegro (2010), "New
Estimates for the Shadow
Economies all over the World"



26.0

46 out of 162 countries

(2007)



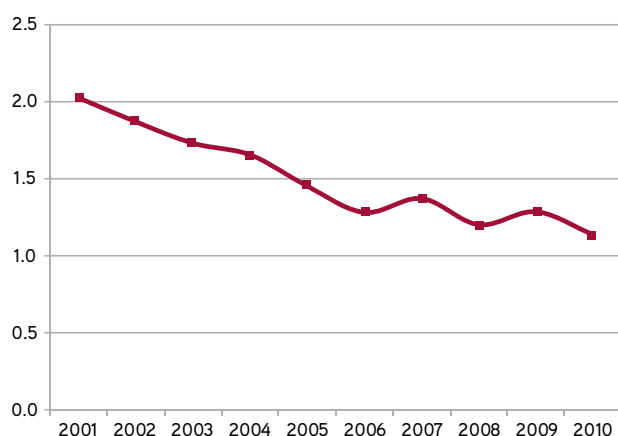
* Corruption perception index ranged from 0 to 10 until 2011. Since 2012, it ranges from 0 to 100. Highly corrupted countries occupy low positions in this rank.

CRIME TRENDS

- **Crime levels in Poland are low, with significant decreases since 2000 (U.S. Department of State 2011).**
- **Poland is the third safest country among OECD members (OECD 2012f).** All violent crimes, including assault, robbery, sexual assault, kidnapping and homicide have shown an overall decrease since 2003 (UNODC 2012a).
- Homicide has recorded a decrease of 6% per year since 2001 (Figure 23). The homicide rate in 2010 was 1.14 per 100,000 inhabitants (UNODC 2011). Poland ranks 158th out of 187 countries for homicide rate (UNODC 2011).²⁶

Figure 23. Homicide rate per 100,000 inhabitants, 2001-2010

Source: Transcrime elaboration on UNODC Homicide Statistics (2012a)



- **Property crimes**, including motor vehicle theft, unlawful entry with intent and other theft, **show a general decrease since 2001**; only burglary has increased since 2008 (UNODC 2012a).
- **Fear of crime is higher than in most developed countries (OECD 2012g):** 63% of Poles feel safe walking alone at night, below the OECD average of 67%; and 88% of the population consider that they live in a safe and peaceful place. While men are at greater risk of being victims of assaults and violent crimes, women report higher insecurity due to the fear of sexual attacks (OECD 2012g; Ministry of the Interior 2012).

26. In this ranking, countries with highest homicide rates occupy the top positions.

- **Crime rates are only marginally related to economic status** in Poland, and the assault rate for the bottom 20% of the population is just 0.2% higher than that for the top 20% (OECD 2012f).

DRUG CONSUMPTION AND MARKETS

- **Drug use is medium-low in Poland.**
- **Cannabis is the most common drug in Poland although its prevalence is low.** In 2010, the consumption rate among adults was 1.1% and ranked Poland 113th out of 139 countries.²⁷ Prevalence among young adults is much higher: 18.0% of students used cannabis during 2010 with an increase of 9.6% with respect to 2008 (Reitox Polish 2012, 36).
- **Cocaine consumption is medium in Poland (47th country out of 99).** 0.6% of adults reported having consumed this substance during 2011 (up from 0.2% in 2010) (UNODC 2012b).
- **Heroin diffusion is low.** Poland, with a prevalence of 0.1% in 2011, ranks 108th out of 132 countries for opioids use (UNODC 2012b).
- **Use of pharmaceuticals for nonmedical purposes is singularly high in Poland.** Surveys by CINN²⁸ and KBPN²⁹ show that these psychoactive substances are more widespread than any other illegal drug (Reitox Polish 2012, 37). Young people have particularly high prevalence rates (11% among males; 24% among females) (UNODC 2012b, 13).
- **Drug seizures are increasing and Poland remains a hot spot for the production of synthetic drugs (Table 8, p.48).**
- Despite important fluctuations, **drug seizures increased between 2006 and 2010 (UNODC 2012b).** Seizures give indications on the extent of drug trafficking. However, they may simply reflect changes in law enforcement efforts and the willingness to report crimes, not in illicit activities (NationMaster 2012).

27. The ranking has been compiled by Transcrime on UNODC WDR 2012, taking the latest available year into account.

28. CINN – Centrum Informacji o Narkotykach i Narkomanii – Information Centre for Drugs and Drug Addiction.

29. KBPN – Krajowe Biuro ds. Przeciwdziałania Narkomanii – National Bureau for Drug Prevention.

Table 8. Drug seizures in Poland, 2006-2011

Source: Transcrime elaboration on UNODC (2012b) and Centralnego Biura Śledczego (2010; 2012) data

	Amphetamine (kg)	Cocaine (kg)	Heroin (kg)	Hashish (kg)	Marijuana (kg)	Ecstasy (unit)
2011	393.9*	75.5*	6.4*	78.2*	1,211.1*	76,090*
2010	534.3	111.0	24.8	85.4	1,501.1	269,841
2009	421.7	117.5	7.7	17.1	883.4	218,626
2008	342.2	28.7	79.0	114.7	478.4	436,000
2007	423.7	161.0	178.0	33.1	353.0	610,565
2006	332.3	22.0	154.8	34.6	400.8	145,389

Note: *Data report seizures conducted exclusively by the local CBŚ KGP.

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- **Seizures of cannabis have increased in recent years** (UNODC 2012b). In 2010, authorities intercepted a record quantity of marijuana equal to 1,501 kg, +70.0% with respect to 2009 (Reitox Polish 2012, 9). Polish cannabis seizures are the eighteenth highest in Europe.³⁰
- According to UNODC, the **cultivation of cannabis herb increased** in 2009-2010 (UNODC 2012b, 48); authorities reported the appearance of indoor cultivations often managed by Vietnamese groups (Europol 2011b, 17; UNODC 2012b, 48).
- **Poland is on the main routes for heroin trafficking.** It lies on the northern sub-route of the Balkan Route (Interpol 2012a). Since the 1980s, the Balkan Route has been the primary link between Afghan poppy cultivations and Western Europe markets (UNODC 2012b). Furthermore, **also the Silk Route, the second most important route for heroin, passes through Poland** (Interpol 2012b).
- Heroin seizures decreased by 84% between 2006 and 2010. Poland seizures of heroin in 2010 were the 27th among 42 European countries (Reitox Polish 2012, 9; UNODC 2012b).
- Cocaine seizures increased fourfold from 2006 to 2010 (UNODC 2012b). However, because of the high variation across the years it is not possible to determine a clear trend.
- Seven countries (France, Germany, the Netherlands, Poland, Spain, Turkey and the UK) account for 90% of European seizures of amphetamine (UNODC 2012b, 54). In Poland, seizures of amphetamine amounted to 534.3 kg in 2010 (+60.8% with respect to 2006). In 2010, authorities seized 269,841 units of ecstasy (+85.6% with respect to 2006). These data confirm the **centrality of Poland in the manufacturing of ATSS** (mostly amphetamine and ecstasy) (UNODC 2012b, 80; Europol 2011b, 16).
- In 2011, the Central Bureau of Investigation KGP detected twelve laboratories for synthetic drugs and 56 professionally organised cannabis plantations (13 and 61 in 2010 respectively) (Centralnego Biura Śledczego 2012).
- **Unemployment is a key driver of involvement in crime.**
- In 2009, 30% of the people arrested for drug trafficking were unemployed, compared with a national unemployment rate of 8.2% that year (UNODC 2012b, 88). Moreover, Police identified Roma groups from Poland trafficking unemployed individuals to the UK, where they engage in welfare benefit fraud (Europol 2011b, 27).

30. The ranking has been compiled by Transcrime on UNODC WDR 2012, taking 2010 data into account.

Table 9. Central Investigative Office of the Polish Police's prosecution, 2006-2011

Source: Transcrime elaboration on Centralnego Biura Śledczego (2013) data

	2006	2007	2008	2009	2010	2011
No. of people involved in OC	2,644	3,692	4,858	5,118	5,615	6,017
No. of OC groups	246	348	425	500	547	595
Polish groups	217	326	385	448	501	551
International groups	28	19	32	38	36	39
Russian-speaking groups	1	3	5	10	7	4

•• **The purchasing of counterfeit products is widespread.**

- Annual sales of counterfeit products are around PLN30 bn and **43% of Poles have purchased a counterfeit product in their lives**. 28% of Poles do not consider the sale of counterfeit products unethical, but the social perception of the negative consequences of counterfeiting is increasing (Szozzuk and Barchanski 2009; Nowak 2012).
- Counterfeiting mainly regards consumer products and in particular luxury goods like handbags; nevertheless, the phenomenon is expanding to business-to-business goods. Counterfeit goods are both produced in Poland and imported, mostly from the Far East (Szozzuk and Barchanski 2009; Nowak 2012).
- The phenomenon also concerns the tobacco market. In 2011, cigarettes were by far the most frequently seized products in volume terms among counterfeits (Ministry of the Interior 2012, 167).

ORGANISED CRIME AND CORRUPTION

- **Poland has a medium-high presence of organised crime activity, corruption is medium-low.**
- **Poland ranks medium-high on the composite organized crime index**, scoring 52.4 and occupying 65th place among 156 countries (Van Dijk 2008).³¹
- Organised crime had its heyday in the late 1990s, but it is still active (U.S. Department of State 2011, 4; Europol 2011b, 17). This is confirmed by the fact that prosecutions against members of Organised Crime groups (henceforth OC) have constantly increased in recent years (Table 9) (Centralnego Biura Śledczego 2013).
- Among foreigners, the dominant groups consist of Russians, Vietnamese, Ukrainians, Belarusians, Lithuanians (Centralnego Biura Śledczego 2012).
- Polish OC groups operate across borders in drug trafficking, cyber-crime, vehicle thefts, food counterfeiting and human trafficking. Law enforcement agencies have detected various groups active in human trafficking and connected to Poland also in the US (U.S. Department of State 2011, 4; Europol 2011b, 17).

31. Countries with large amounts of organised crime occupy high positions in this ranking.

- **Poland ranks in a medium-low position on the Corruption Perceptions Index.** It is 41st out of 176 countries (score of 58) and, since 2008, it has been improving (Transparency International 2012). However, in 2011 Police detected 3,675 cases of active bribery, +24.1% with respect to 2010 (Ministry of the Interior 2012, 221).
- **The Polish shadow economy is medium but decreasing** (Schneider, Buehn, and Montenegro 2010). Poland ranked 46th out of 162 countries in a study measuring shadow economies in 1999-2007 (Schneider, Buehn, and Montenegro 2010).

In conclusion, crime levels are low in Poland and the country has a medium-low level of corruption and of informal economy. Nevertheless, drug trafficking is evolving with respect to several substances, and there are a number of organised crime groups in the country.

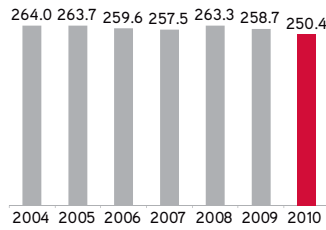
THE FIVE DRIVERS: ENFORCEMENT

The effectiveness of Polish law enforcement is increasing. Seizures of illicit tobacco products are growing because of the increasing involvement of several agencies, European cooperation agreements and the use of modern anti-smuggling equipment. Penalties for smuggling may be too low to effectively discourage smuggling.



Police

Police personnel
rate per 100,000
inhabitants
Source: UNODC



250.4

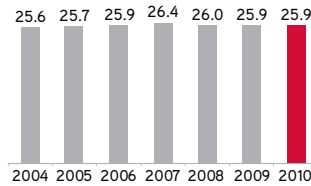
50 out of 81 countries

(last available year)



Judiciary

Professional judges
rate per 100,000
inhabitants
Source: UNODC



25.9

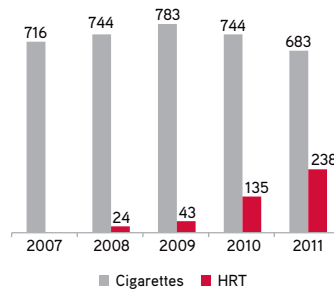
11 out of 73 countries

(last available year)



Tobacco Products Seizures

Quantity of seized tobacco
in Kg per 100,000
inhabitants
Source: Polish Government



Cig. 683 Kg HRT 238 Kg

(2011)

52

Penalty for ITTP

Likely maximum penalty
for an hypothetical
serious case of ITTP
Source: Transcrime elaboration

7.5 years of imprisonment

Anti-ITTP Action*

Composite indicator
measuring the presence of
specific policy measures
in the country
Source: Transcrime elaboration



2/5 points

(2013)

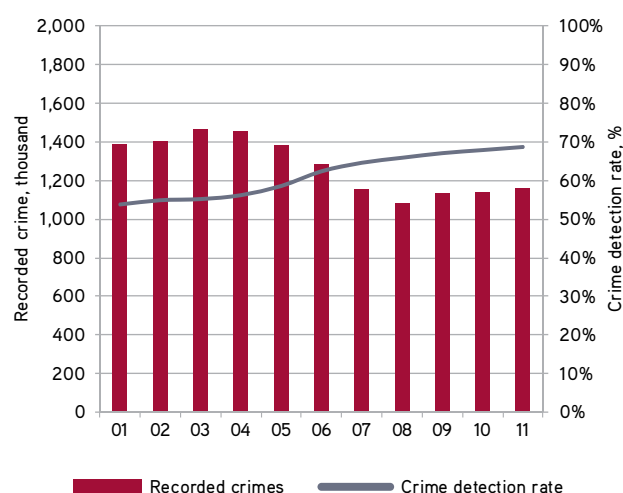
* The indicator should not be interpreted as if a higher value is always better than a lower value. The objective is rather to synthetically assess the intensity of policy measures in a specific field.

LAW ENFORCEMENT IN POLAND

- **The police personnel rate** per 100,000 inhabitants in 2010 was 250.4. This is lower than the average of other countries and ranks Poland 50th out of 81. The police rate has slightly decreased since 2003, when it was 261.6 (UNODC 2012c).
- **Policja – Rzeczypospolitej Polskiej** is the backbone of the **police system**. *Policja* is a centralised force, which depends directly on the Ministry of Internal Affairs (Zgromadzenie Narodowe 2002).
- In addition to the police, the national statute law foresees:
 - *Straż Miejska* – Municipal police;
 - *Biuro Ochrony Rządu* – Government protection bureau;
 - *Straż Graniczna* – Border protection;
 - *Straż Ochrony Kolei* – Railway protection guard;
 - *Służba Więzienna* – Prison service (Zgromadzenie Narodowe 2002).
- **The rate of judges** per 100,000 inhabitants in 2010 was 25.9. Poland ranks eleventh out of the 73 countries surveyed by UN. The number of judges has slightly increased since 2003, when the rate was 24.8 (UNODC 2012c).
- According to the Ministry of Interior, the 2011 overall crime detection rate was 68.7%. Since 2001, the overall detection rate has increased by 14.9% (Figure 24) (Ministry of the Interior 2012, 8).

Figure 24. Detected crimes, total number and rate, 2001-2011

Source: Transcrime elaboration on Ministry of Interior (2012) data



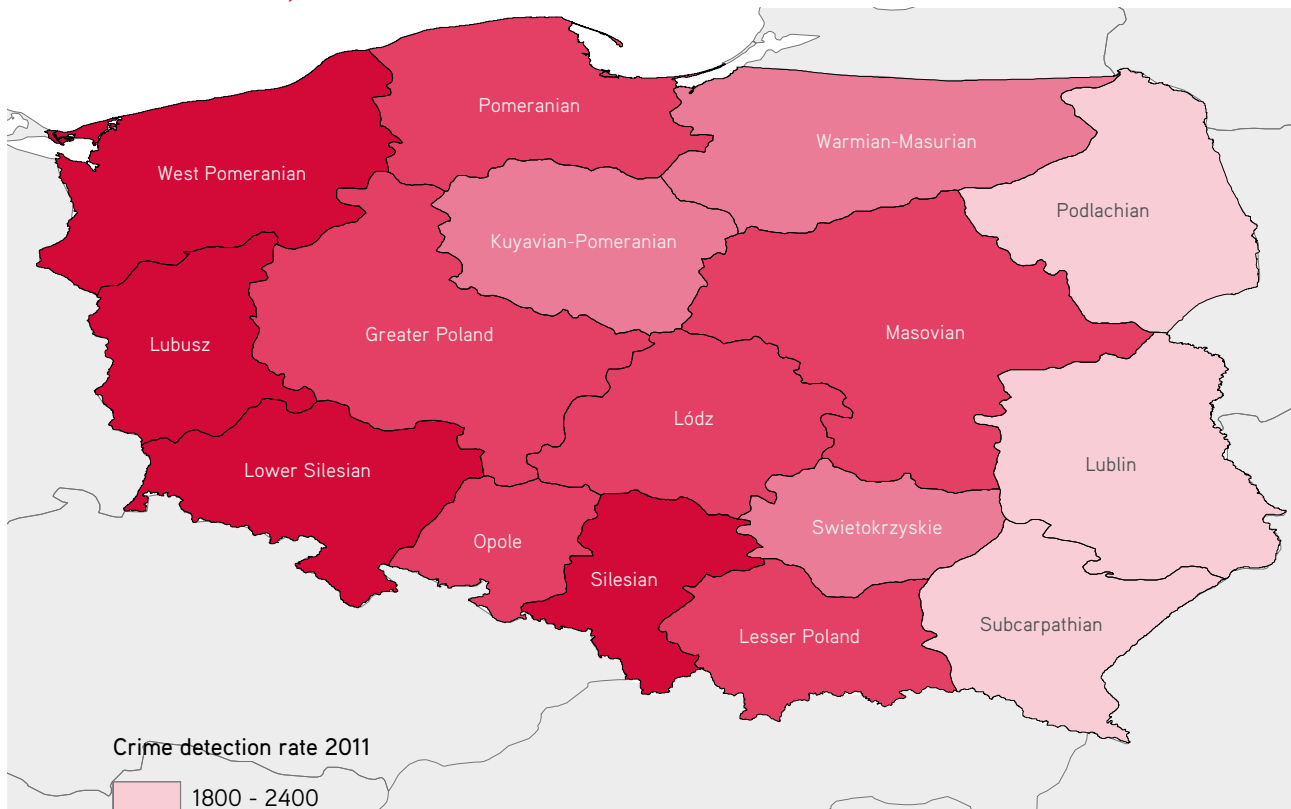
- **There are regional differences in crime/crime detection.**

- **The ratio between recorded crimes and population is higher in the West** and lower in the East (Figure 25, p.54) (Ministry of the Interior 2012, 10). A difference in the crime rate, the detection rate, or a combination of the two may explain this discrepancy.
- **Poland's prison population has slightly increased in the past decade.** In 2012, the total number of inmates per 100,000 inhabitants was 222, corresponding to 85,419 detained persons. It was 208 in 2001 (ICPS 2012). More than half of the countries in the world have a prison population rate below 150 per 100,000 inhabitants (Walmsley 2011). In 2010, Poland with a rate of 215.2 ranked 33rd out of 103 countries.³²

³² The ranking has been compiled with data from the United Nations Survey on Crime Trends and the Operations of Criminal Justice Systems (CTS), taking the latest available year from 2004 to 2010 into account.

Figure 25. Recorded crime per 100,000 persons, 2011

Source: Transcrime elaboration on Ministry of Interior (2012) data



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THE FIGHT AGAINST THE ITTP IN POLAND

- **The Customs Service is mainly responsible for the fight against the ITTP (WHO 2009, 33).**
- **SC – *Służba Celna* – Customs Service** manages the legality of imports and exports. With EU accession, Poland's eastern borders became EU external borders, with the consequence that the importance of the Customs Service increased (Lisicki 2008; Ministry of Finance 2012b).
- **The Customs Service is responsible for the fight against the ITTP** on the external borders of the EU and within Poland. For this purpose, specially equipped mobile control units inspect roads, markets and trade fairs, rail transport vehicles, business buildings and private land (see box *Anti ITTP new equipment*) (WHO 2009, 34).
- The mounting scale of the ITTP and the increase in illegal cigarette manufacturing have led to greater involvement by other law enforcement agencies in addition to the Custom Service (WHO 2009, 33; Niemczyk 2013).

- **Policja – *Rzeczpospolitej Polskiej* – Police** concentrates mainly on the detection and closing down of illegal manufacturing facilities and storage places of illicit cigarettes (WHO 2009, 34).

ANTI ITTP NEW EQUIPMENT

In 2010, the government spent PLN133 mn on modern smuggling detection equipment, new electronic communications and control centres (Lentowicz 2010). In 2011, the first European X-ray scanner became operative in Medyka along the Polish-Ukrainian border. It provides high quality images facilitating the control of trains and cargoes (PRKił S.A. 2013). A second stationary scanner will be installed on the border with the Russian exclave of Kaliningrad (Lentowicz 2010).

In the area around Budzisko, in the border region between Poland and Lithuania, customs officers are equipped with mobile X-ray and licence plate reading systems (WHO 2009, 35; Lentowicz 2010; B&S Europe 2012). The authorities are also considering the recruitment of additional customs staff and the training of more sniffer dogs (Ministry of Finance 2012c).

- **CA** – *Departament Kontroli Celno-Akcyzowej i Kontroli Gier* – **Customs-Excise Control and Gambling Control Department** supervises the controls conducted by the Customs Service and audits proceedings and official inspections related to treasury crimes (Ministry of Finance 2012a).
- **SG** – *Straż Graniczna* – **Border Guard** has a double task since it patrols borders and territorial waters and traffic on the borders. The Border Guard investigates cross-border crimes such as illegal immigration, trafficking in human beings and smuggling (Europol 2013).
- **PC** – *Departament Polityki Celnej* – **Customs Policy Department** cooperates with the EC and the Council of the EU to shape common customs policies. It coordinates activities related to legislative work and implementation of community and domestic Customs law (Ministry of Finance 2012e).
- **IC** – *Izba Celna* – **Customs Chambers** are responsible for inspections of the Customs Union's external borders (RILO 2010). They monitor bazaars, markets, postal-courier services and roads. They devote particular attention to roads leading into Western Europe and Scandinavia (Ministry of Finance 2012c).
- **KGZ** – *Krajowa Grupa Zadaniowa ds. Wyrobów Tytoniowych* – **National Task Force on Combating Tobacco Smuggling** collects information on smuggled cigarettes and on goods used to mask trafficking (Pawlak-Żalikowska 2010; Ministry of Finance 2012c).
- Moreover, the government has set up an **“Interministerial Working Group for countering cigarette-smuggling”**. Experts from the Police, the Customs Service, the Border Guard Service and tax authorities cooperate to optimise their operations through the exchange of information and the coordination of search and control operations (WHO 2009, 34).
- **Polish law enforcement cooperates with international agencies.**
 - Cooperation of Polish law enforcement agencies with European and international law enforcement agencies is developed through Europol, Interpol, World Customs Organization (WCO), Schengen and special *Action plans to fight against smuggling of cigarettes and alcohol along the EU Eastern border*. According to the German Customs Criminal Office, Schengen, in particular, has created important opportunities to act against the ITTP (RILO 2010; European Commission 2011; Europol 2013).³³

Table 10. Seizures of smuggled cigarettes and raw tobacco, 2005-2011

Source: Transcrime elaboration on Ministry of Finance (2012b) and Ministry of Interior (2012) data

	2005	2006	2007	2008	2009	2010	2011
Cigarettes (mn sticks)	536	595	716	744	783	744	683
Tobacco (tonnes)				24.2	43.4	134.7	237.7
Total tobacco (tonnes)	536.0	595.0	716.0	768.2	826.4	878.7	920.7
Customs Service	425	472	539			573	509
Border Guard	56	69	111			115	
Police	55	44	66			56	

³³. Interview with Mr. Wolfgang Schmitz on 25th March 2013

- Poland has taken part in several Joint Customs Operations (henceforth JCO) under the coordination of the European Anti-Fraud Office (OLAF). Operation Barrel is an example of these actions (see box *Operation Barrel*) (Kasperkevic 2012; OLAF 2013).

•• Detections of smuggled tobacco are increasing.

- Year by year, the effectiveness of the Polish law enforcement agencies in combating the ITTP has improved (see box *Interception techniques*), as evidenced by the ever larger number of seizures (Table 10, p.55) (WHO 2009, 36; Warsaw Business Journal 2011).

OPERATION BARREL

Operation Barrel was the first JCO to target the ITTP and the smuggling of synthetic drugs on trains crossing the EU's eastern border between Ukraine and Poland.

JCOs target smuggling and customs fraud in high-risk areas or along identified problematic trade routes (e.g. incoming trains from Asia, ship containers arriving in EU ports with cargo from third countries). JCOs improve cooperation between countries in tackling smuggling and customs fraud.

Twenty-four EU Member States participated in the operation under the coordination of the Polish Customs Service and OLAF. The European Commission's Directorate General for Taxation and Customs Union (TAXUD), Europol, Frontex and the World Customs Organization supported this JCO. The operation took place from 18 to 27 October 2011 and resulted in the interception of 1.2 mn cigarettes (European Commission 2012a).

- The Customs Service estimates that it detects more than 10% of smuggled tobacco products per year. The British Customs Service reported that Poland intercepts 3-5% of the ITTP (Niwserwis 2011, 6).
- Law enforcement agencies seize approximately 1% of the supply of illegal cigarettes in the regions that are not on the borders, Government's goal is to increase the detection rate in these parts of the country (Niemczyk 2013).

INTERCEPTION TECHNIQUES

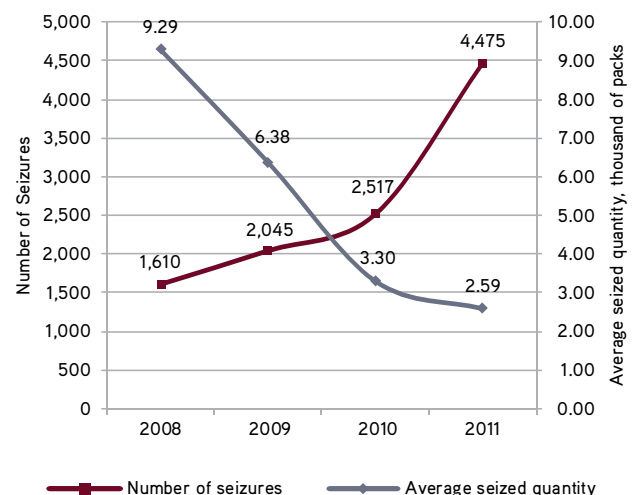
"We stop around five or ten per cent of vehicles", said watch commander Mariusz Kuzia. "Above all it is based on risk analysis, for example, a person's travel history. We have systems that log licence plates. We are good psychologists, spotting nervous behaviour. And we also look out for changes to a vehicle's construction", Kuzia explained (EUbusiness 2010).

•• Size of seizures is decreasing.

- In recent years, the Customs Service has reported more individual disclosures than previously, while intercepting smaller amounts of cigarettes. This trend is particularly evident in regard to disclosures made in road transport, bazaars and markets (Figure 26) (Ministry of the Interior 2012, 181).
- In 2011, the authorities seized 683 mn cigarettes, 8.2% less than in 2010, when interception amounted to 744 mn sticks (Table 10, p.55) (Ministry of the Interior 2012, 181).

Figure 26. Customs Service's disclosures of cigarettes in bazaars and markets, 2008-2011

Source: Transcrime elaboration on Ministry of Interior (2012) data



• Seizures of raw tobacco have boomed.

- Seizures of raw tobacco increased by 210.4% between 2009 and 2010 and by 76.5% between 2010 and 2011. In 2009, the tobacco market underwent major reforms intended to reduce public interventions and the distortion of competition (Ministry of the Interior 2012, 182).
- Most seizures occur on the external borders** (Figure 26, p.56); 76.3% in terms of value, 76.7% in terms of volume (2011 data) (Ministry of the Interior 2012, 184). In 2011, 38% of the seizures of cigarettes along the EU's borders occurred along its eastern ones (Figure 27). Poland reported the highest number of smuggling incidents (Frontex 2012).

Figure 27. Detections of smuggled cigarettes on the EU's external borders, 2010 (inner ring) – 2011 (outer ring)

Source: Transcrime elaboration on JCO Focal Points Land (2010; 2011) data

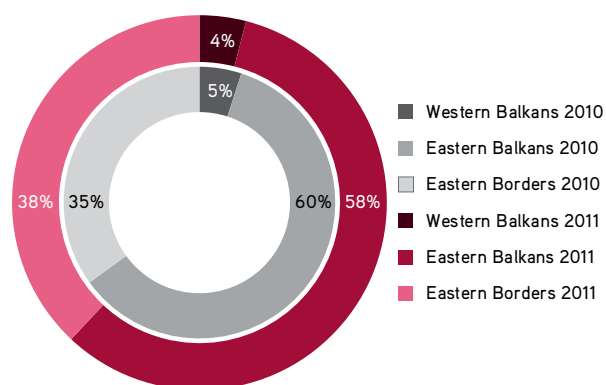
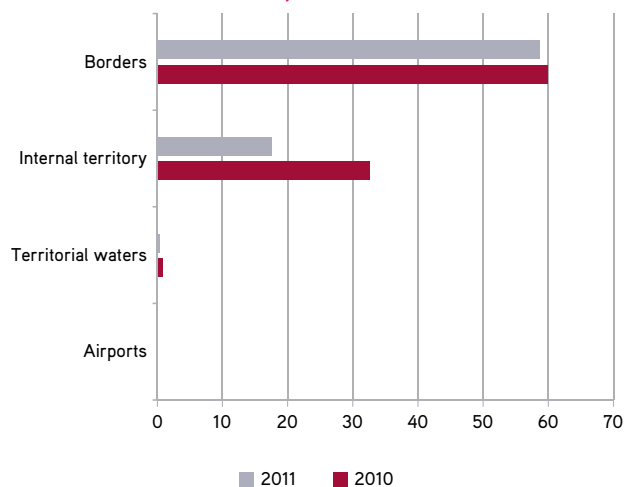


Figure 28. Value of seizures by place of detection, mn of PLN

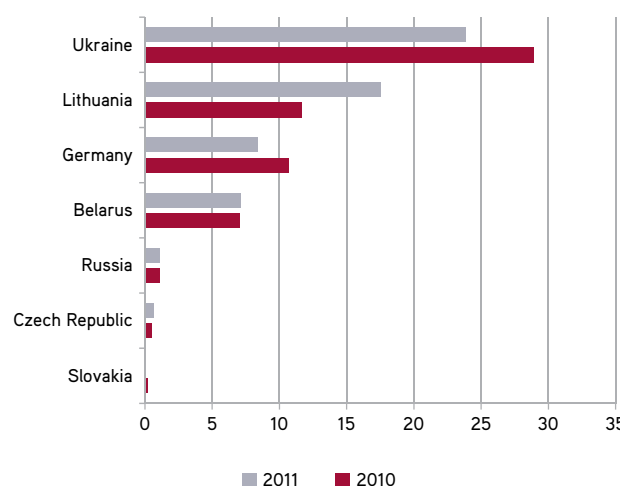
Source: Transcrime elaboration on Ministry of Interior (2012) data



- The Customs Service's activities account for 70-80% of tobacco seizures in recent years (Table 10, p.55) (Ministry of the Interior 2012, 181).
- In 2011, the value of seizures on Polish territory decreased by 46.0%.** Interceptions at airports increased by 20% in the same year, but they are still marginal (Figure 28) (Ministry of the Interior 2012, 184).
- In 2010 and in 2011, detection of the ITTP concentrated on Poland's Ukrainian, Lithuanian and Belarusian borders to the East and on the German border to the West (Figure 29). The trend of seizures suggests a partial substitution between Ukraine (-17.4%) and Lithuania (+51.1%) as source countries (Ministry of the Interior 2012, 184).

Figure 29. Value of seizures by detection border, mn of PLN

Source: Transcrime elaboration on Ministry of Interior (2012) data



• Law enforcement agencies have closed down a significant number of illicit tobacco factories.

- The Police closed down more than forty illegal manufacturing facilities between 2005 and the first three months of 2013 (WHO 2009, 34; Policja 2013).
- In 2011, Poland's Central Bureau of Investigation raided the largest illicit cigarette factory ever discovered. Agents found more than five mn cigarettes bound for Western countries, together with 50 tonnes of tobacco in a warehouse near Warsaw (Euromonitor International 2013c, 44).

•• **Prosecutions against criminals involved in the ITTP are increasing.**

- In 2011, authorities initiated 1,753 prosecutions for ITTP-related crimes (+6% on 2010). These cases involved 1,704 defendants; 1,092 persons were convicted (Ministry of the Interior 2012, 180).

•• **Poland introduced some reforms to discourage the ITTP.**

- In 2007, the government extended penalties to all actors involved in the ITTP. The purpose was to induce retailers to buy cigarettes only from legitimate wholesalers. The acquisition, storage, transport and transfer of cigarettes without excise stamps are crimes in Poland (see box *Hypothetical case*). The previous legislation did not penalise retailers caught selling smuggled cigarettes if they could prove that they were unaware of the illicit source of the products (Euromonitor International 2012b, 11; Drewnowska and Lentowicz 2011b).
- Custom Services undertook a series of anticorruption actions such as changing the whole crew of patrols at some border crossings (Niemczyk 2013).

- The anti-ITTP fight expanded to the internet. Law enforcement agencies monitor the web to identify traffickers. Once they have detected a meaningful number of suspects they operate to dismantle their networks (Niemczyk 2013). At the end of 2008, **the number of cigarettes that an individual can import into Poland was reduced from 200 to 40** (EUbusiness 2010). Customs law states that air and sea travellers can bring the following amounts of tobacco products into Poland:

- 200 cigarettes or
- 100 cigarillos (cigars of a maximum weight of three g each) or
- 50 cigars or
- 250 g of smoking tobacco.

The law allows land and train travellers to bring smaller quantities into the country:

- 40 cigarettes or
- 20 cigarillos or
- 10 cigars or
- 50 g of smoking tobacco (Ministry of Finance 2012f).

HYPOTHETICAL CASE

A criminal organisation composed of eleven members used a house in the periphery of a large city as an illicit factory for the production and distribution of tobacco products. For at least sixteen months, with a clear division of tasks and functions among them, the members of the organisation illegally manufactured tobacco products (cigarettes and hand-rolling tobacco); packed them in packaging bearing false trademarks of legitimate brands (produced by the same organisation); distributed the products to various wholesalers and retailers; sold the illicit products through a network of bars and street sellers. No tax or duty was ever paid on these products. The law enforcement agencies seized a total of ten tons of illegal tobacco products stocked inside the house. All the members of the organisation had previous records for fraud, forgery and illicit trade in tobacco products. The members could not justify their incomes through any form of employment, suggesting that the illicit business was their sole source of income.

Under Polish law, there are several offences applicable to the above case. They relate to the following areas:

1. Criminal organisation
2. Manufacturing tobacco products without registration
3. IP infringement
4. Tax offences
5. Health protection against consequences of using tobacco

1. Criminal organisation

Pursuant to Article 258 § 1 of the Polish Criminal Code, any member of an OC group intent on committing criminal or penal fiscal offences may be imprisoned for between three months and five years (up to **seven years and six months** of imprisonment if the offence is committed by a recidivist).

More severe penalties apply to the leaders of OC groups. According to Article 258 § 3 of the Polish Criminal Code, penalties for leaders range from one to ten years of imprisonment (up to fifteen years if the offence is committed by a recidivist).

The Polish Criminal Code does not clearly define the notion of OC group or association. According to Polish jurisprudence:

- the organisation must have at least three members,
- the members must operate with the intention of committing offences,
- there must be an organisational structure among the members,
- there must be a leader of the group.

Considering that the members of the criminal organisation as described in the scenario had criminal records, it is likely that the penalties would be increased due to their recidivism.

2. Manufacturing tobacco products without registration

Polish law states that the manufacturing of tobacco products requires enrolment on the register of manufacturers of tobacco products (see Regulation, p.37).

Article 12a, sec. 1 of the Act on Production of Ethyl Alcohol and Tobacco Products sanctions the manufacturing of tobacco products without registration with a fine, limitation of liberty (public work) or imprisonment for up to one year. Owing to the significant value of the goods manufactured, the penalty could be increased (imprisonment for up to two years).

Moreover, according to Article 14 of the Act on Production of Ethyl Alcohol and Tobacco Products, if the offence is a regular source of income for a perpetrator, the latter may be imprisoned for up to **three years**. The machinery and key components used in the illicit manufacture may be forfeited.

Since the perpetrators described acted as members of a criminal organisation and had previous records, the court may increase the penalties by up to 1.5 times the maximum statutory limits.

3. IP infringement

In compliance with Article 305 sec. 1 and 3 of the Industrial Property Law, the counterfeiter may be subject to imprisonment for up to **two years** (up to five years, if the offence concerned products of a significant value or became a regular source of income). Fines for counterfeiting may reach PLN1,080,000 (about US\$330,815).³⁴

Since the perpetrators described acted as members of a criminal organisation and had previous records, the court could increase the penalties by up to 1.5 times the maximum statutory limits.

Article 306 of the Industrial Property Law states that the machines used for counterfeiting as well as key components are obligatorily forfeited and destroyed.

4. Tax offences

Tax evasion incurs imprisonment for up to **five years** (up to ten years if the offence results in a significant loss of revenues for the Treasury), or a fine of up to PLN14,400,000 (about US\$4.4 mn)³⁵ or both (Article 54 § 1 of the Penal Fiscal Code).

³⁴. PLN/US\$ European Central Bank exchange rate at 31.03. 2013.

³⁵. PLN/US\$ European Central Bank exchange rate at 31.03. 2013.

According to Article 69a § 1 of the Penal Fiscal Code, the storage and manufacturing of tobacco products with infringement of the trading conditions for excise goods is subject to imprisonment for up to **two years** (up to four years if the offence results in the Treasury's significant loss of revenues), or a fine of up to PLN 14,400,000 (about US\$4.4 mn)³⁶ or both.

Pursuant to Article 31 § 6 of the Penal Fiscal Code, the destruction of tobacco products subject to penal fiscal offences is mandatory.

5. Health protection against the consequences of using tobacco

Article 12 of the Act on Health Protection Against Consequences Of Using Tobacco And Tobacco Products states that manufacturing tobacco products not meeting legal quality standards is subject to a fine of up to PLN 200,000 (about US\$61,262) and/or limitation of liberty (public work).³⁷

Penalty imposed on the perpetrator for criminal and tax offences

Pursuant to Article 8 § 1 of the Penal Fiscal Code, in the case of criminal and tax offences the court shall apply both the provisions of criminal law and the those of penal fiscal law.

When sentencing the perpetrator for each offence, the court shall decide whether to apply the most severe penalty among those available (Article 8 § 2 of the Penal Fiscal Code). This regulation does not exclude the application of punitive measures (e.g., forfeiture) or a cumulative fine (comprising all applicable fines for the offences committed).

Sentencing for several criminal acts (cumulative penalty)

In case of multiple offences, the court imposes an aggregate penalty for all the offences. The aggregate penalty must remain within the limit for the most serious offence and cannot exceed 15 years of imprisonment (Article 86 of the Criminal Code). This does not prevent the court from imposing other sanctions (e.g., forfeiture, obligation to pay damages).

If the offender has committed two or more similar offences within a short period of time ("serial offences"), the court, at its own discretion, can impose one "penalty" for all the similar offences, but the upper limit of the penalty can be increased by half (Article 91 of the Criminal Code).

In the scenario, the court is likely to impose an aggregate offence for all the offences. Considering that the criminals committed serial offences and they have previous criminal record for similar offences, they may face a maximum penalty of **7 years and six months of imprisonment** and a judicial fine whose evaluation depends mainly on the Treasury's loss of revenues due to the criminal activity. It can theoretically reach US\$4.4 mn.

According to Article 33 § 2 of the Criminal Code, the court may impose an additional penalty of a fine alongside the penalty of imprisonment if the perpetrator committed the offence for financial purposes, or financially benefited from the offence. The fine is calculated in daily rates (up to 540 daily rates), and a daily rate shall not be higher than PLN 2,000 (US\$613)³⁸ (Article 33 § 1 and 3 of the Criminal Code).

³⁶. PLN/US\$ European Central Bank exchange rate at 31.03. 2013.

³⁷. Articles 8b, 9 and 10 of the Act on Health Protection Against Consequences Of Using Tobacco And Tobacco Products state that tobacco manufacturers must fulfil quality standards and place health warnings on packaging.

³⁸. PLN/US\$ European Central Bank exchange rate at 31.03.2013.

- **Anti ITTP action in Poland is medium-low, with 2 points out of 5 (Table 11).**
- **Poland is implementing its second national action plan against the ITTP.**
- The Ministry of Finance estimated that Poland lost PLN3.3 bn in 2009 because of the ITTP. In the same year the Government consequently launched the first National Action Plan against the ITTP: the “Customs Service Strategy for the fight against smuggling and ITTP for the years 2009-2011” (henceforth Strategy 2009-2011) (Ministry of Finance 2012c).³⁹

Table 11. Measures against the ITTP in Poland

Source: Transcrime elaboration

Anti-ITTP action indicator	Scores
1) National Action Plan against the ITTP	1 point
2) Cooperation agreements between national public bodies and tobacco companies to prevent and control the ITTP	0.5 points
3) National public awareness campaign against the various forms of the ITTP	0 points
4) Legal duty for tobacco manufacturers not to facilitate smuggling	0.5 points
5) Official estimates of the size of the ITTP	0 points

Note: the indicator should not be interpreted as if a higher score is always better than a lower score. Its purpose is rather to synthesise the intensity of policy measures in a specific field.

³⁹. Strategię działania Służby Celnej w zakresie zwalczania przemytu i nielegalnego obrotu wyrobami tytoniowymi na lata 2009-2011.

Table 12. Measures against the ITTP in Poland (2008-2011)

Source: Transcrime elaboration on KPMG (2012)

	2008	2009	2010	2011
Actual Market Share	8.2	11.8	10.6	10.6*
Projected Market Share	-	10.0	12.5	15.0

Note:* 2011 value is estimated on the basis of the first ten months

- Strategy 2009-2011 was based on three strategic objectives:
 - reduction of the supply of illicit tobacco products on the domestic market,
 - prevention of the smuggling of tobacco products from Poland to the EU,
 - achievement of public support for the implementation of the Strategy (Ministry of Finance 2012c, 4).
- **2009-2011 anti-ITTP Strategy has been effective:**
 - The actual market penetration of illicit products remained below the level projected by the experts (Table 12) (Ministry of Finance 2012c, 5; Niemczyk 2013).
 - More effective patrolling of the Polish borders caused a decrease in the number of Russian and Ukrainian packs of cigarettes disclosed in the EU during 2009 and 2010 (Ministry of Finance 2012c, 5).
 - The large number of applications filed by citizens through the National Customs Service Phone Intervention testifies to increasing public awareness of the Strategy (Ministry of Finance 2012c, 6).
 - Analysis of the results of Strategy 2009-2011 prompted a second campaign. The Strategy for 2012-2015 pursues the first two objectives of the previous strategy. However, it introduces modifications in order to reduce the “grey area” of exchanges in tobacco products (Ministry of Finance 2012c, 15).

- The strategy foresees a series of activities and intermediate objectives necessary to achieve the two main targets:
 - improving controls with the use of X-ray equipment,
 - monitoring the southern borders,
 - introducing constant practices for the confiscation of property from people involved in smuggling,
 - improving cooperation with the customs of other EU countries,
 - implementing risk analyses,
 - strengthening the control of postal and courier services,
 - increasing controls in bazaars and markets,
 - implementing e-commerce control,
 - and many others (Ministry of Finance 2012c).
- **In Poland, there are no specific agreements between national public bodies and tobacco companies to prevent and control the ITTP.** However, Poland has entered into agreements between the EC, represented by OLAF, and major tobacco companies. The Parties aim to eliminate the ITTP on the EU's territory and to assist law enforcement agencies (WHO 2009, 35; Sieber 2010, 90). Manufacturers have undertaken to supply only quantities required by the legitimate market, ensure that they sell to legitimate clients, and implement a tracking system (Point 2 of Table 11, p.61) (European Commission 2004; European Commission 2007; European Commission 2010a; European Commission 2010b).
- **Currently there are no nation-wide publicly-funded awareness campaigns against the ITTP.**
 - There is no evidence at present of any nationwide information campaign. The Polish authorities promoted an awareness campaign on the ITTP within Strategy 2009-2011. The promoters used posters, leaflets, brochures, etc. and shared communication efforts with social actors like ecclesial communities. Experts labelled the campaign as unsuccessful (Niemczyk 2013). Strategy 2012-2015 does not foresee similar initiatives, but other actions are in the planning phase (Point 3 of Table 11, p.61) (Ministry of Finance 2012c; Niemczyk 2013).
- **In Poland, there is no specific legal duty for tobacco manufacturers not to facilitate smuggling.** However, **the four major tobacco companies have signed agreements with the EC**, represented by OLAF. The Parties aim to eliminate the ITTP on the EU's territory and to assist the law enforcement agencies (WHO 2009, 35; Sieber 2010, 90). Moreover, Polish law prohibits everyone, and therefore also tobacco manufacturers, from smuggling and supporting smuggling (Point 4 of Table 11, p.61).
- **There are no official yearly estimates of the ITTP in Poland** (Ciecierski 2007; Euromonitor International 2012c, 11). However, the Ministry of Finance provides some rough estimates of the tax loss caused by the ITTP (see The Products, p.72) (Point 5 of Table 11, p.61) (Ministry of Finance 2012c).

In conclusion, the effectiveness of Polish law enforcement is increasing. Nevertheless, anti-ITTP action is medium low. There is neither a national public-awareness campaign against illicit tobacco products nor official data on the ITTP. Further, penalties for smuggling may be insufficient to discourage involvement in the ITTP. However, seizures of tobacco are increasing also due to European cooperation agreements and the deployment of cutting-edge equipment.

Chapter 2

the four components

THE FOUR COMPONENTS

This chapter analyses the four components of the ITTP. The components are the various elements of the illicit tobacco market, and their analysis highlights the complexity, diversity and dynamism of the ITTP.

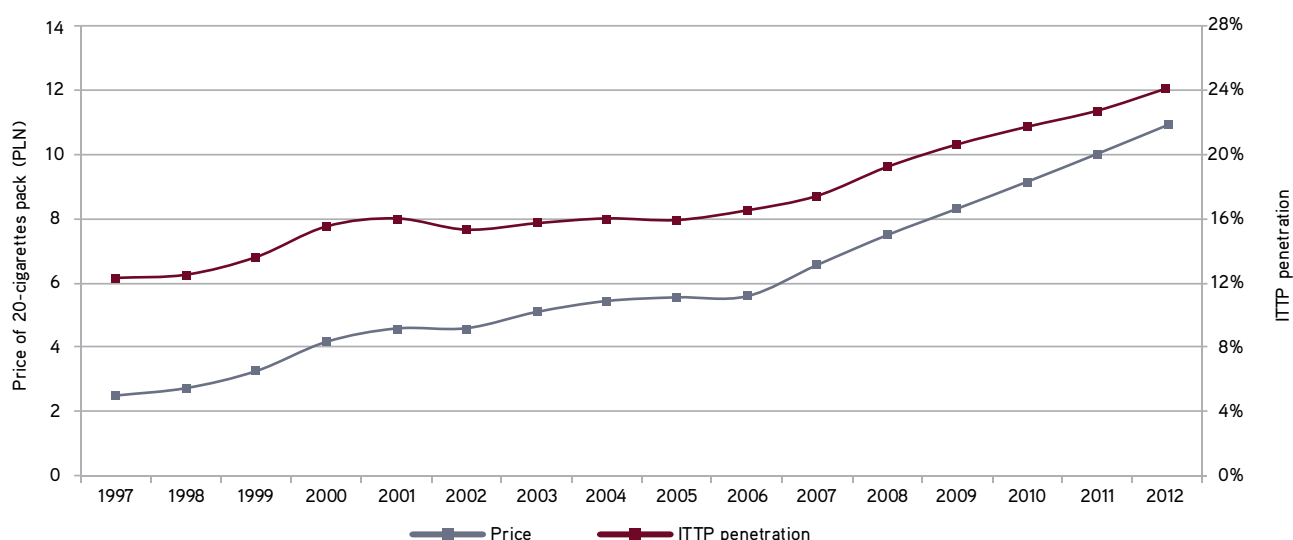
THE DEMAND

- **Price is the key driver of the purchase of illicit tobacco products in Poland (Message House Agencja PR 2006, 60).**
- For a number of years, the **Polish government has raised excise duty at a rate exceeding inflation** (see Legal market, p.27) (WHO 2009, 36). Price increases have generated a **downtrading trend** toward cheaper and illicit products (see Legal market, p.27) (Euromonitor International 2012b, 11, 27).
- Euromonitor International data on the penetration of the illicit market evidence a **link between increasing prices and the expansion of the ITTP** (Figure 30, p.66) (Euromonitor International 2012b, 11; Euromonitor International 2012a). Several observers confirm this relationship (WHO 2009, 35; Drewnowska and Lentowicz 2011b; Tyszka 2012).



Figure 30. Price of cigarettes and ITTP penetration in Poland, 1997-2012

Source: Transcrime elaboration on Euromonitor International (2013a) and European Commission (2013) data



- **Illicit products price are around 65% lower than retail selling prices**, and most consumers consider them valid alternatives (Joossens et al. 2009, 36; Lisicki 2009, 9; Euromonitor International 2012b, 11).

- According to surveys:

- price is extremely important in the choice of a cigarette brand for 79% of Poles (65% in EU) (European Commission 2012b),
- 45.8% of Poles would purchase better-priced smuggled cigarettes (Ciecierski 2002, 31),
- most consumers of illicit tobacco purchase it only because of the lower price (Message House Agencja PR 2006, 60).

•• **Higher prices reduce tobacco consumption.**

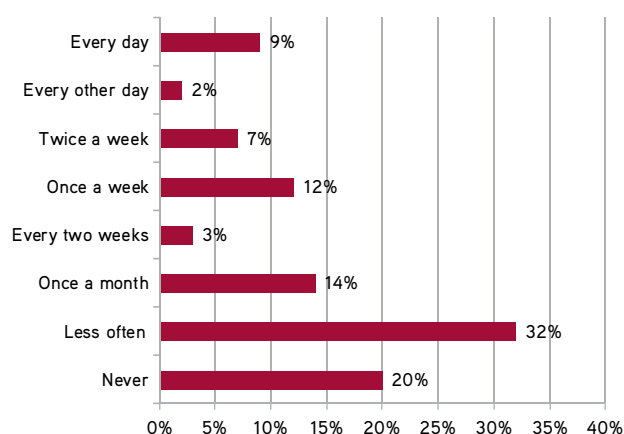
- Times-series analyses indicate that the price elasticity of demand for tobacco products is around -0.115 in Poland; hence a 1% increase in prices would cause a 0.1% decline in legal sales. Short-run elasticity is heavier (-0.4) (Ciecierski, Cherukupalli, and Weresa 2011a). These studies do not consider displacement to the illegal market.
- **High prices of cigarettes are the second reason to stop smoking** after health concerns. Among young smokers, people with lower education, and inhabitants of rural areas, the share of people quitting because of tobacco's unaffordability is higher than in the rest of the population (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010).

•• **The high availability of illicit tobacco influences its demand.**

- **Illicit cigarettes are easy to reach** (Message House Agencja PR 2006, 60) and their availability is increasing due to the high returns on the ITTP (Drewnowska and Lentowicz 2011b).
- A survey conducted in 2013 among consumers of menthol cigarettes indicates that 80% of interviewees have noticed street vendors. 9% of the sample see street retailers every day (Figure 31, p.67) (Coelho and Arink 2013, 30). Around 23% of the respondents to a survey conducted in 2008 had noted the selling of smuggled tobacco products in the previous six months. Within the EU only Lithuania (36%) and Greece (25%) had higher rates (Joossens et al. 2009, 21).
- According to the survey on consumers of menthol cigarettes, 45% of the respondents have ever bought cigarettes on the streets. 1% does it usually (Figure 31, p.67) (Coelho and Arink 2013, 30).

Figure 31. How often do you see illicit street vendors?

Source: Transcrime elaboration on Coelho and Arink (2013) data



Note: data refer to smokers who consume at least six manufactured cigarettes per day, with at least three of them being menthol cigarettes.

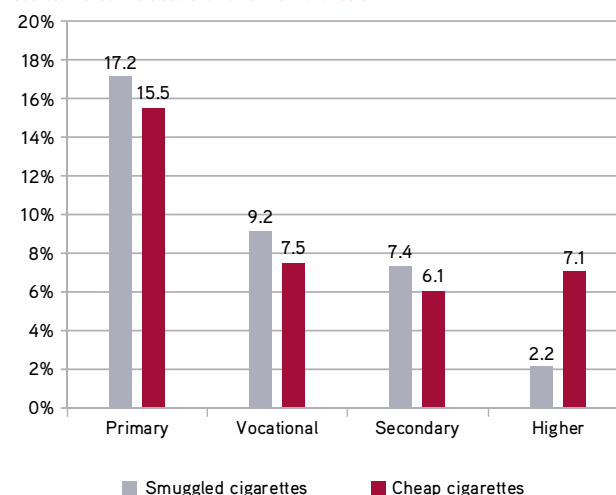
- After the abolition of subsidies to tobacco farmers in 2010, also **the availability of untaxed raw tobacco grew** (Drewnowska and Lentowicz 2011b; Ministry of the Interior 2012, 171).

•• Education influences the demand for tobacco.

- Consumers of illicit cigarettes are almost eight times more frequent among people with elementary school certificates (17.2%) than among people with university or higher degrees (2.2%) (Figure 32) (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010). A higher consumption of illicit tobacco among less educated smokers characterises most European countries (Joossens et al. 2012).
- Among price-concerned consumers, **purchasers of illicit cigarettes are more numerous than consumers of economic legal brands**. Only among highly educated people this does not occur (Figure 32) (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010).

Figure 32. People purchasing cheap and smuggled cigarettes according to their education, 2009-2010

Source: Transcrime elaboration on GATS (2010) data



•• Prohibitions may affect the demand for illicit tobacco products.

- **Young people find illicit tobacco attractive because they are particularly price sensitive.** In addition, illicit tobacco allows them to evade the prohibition on the sale of cigarettes to minors (Stop18 2012, 16). To be noted is that more than half of Polish smokers start before eighteen (see Legal market, p.27), and that cannabis prevalence among young Poles is high (see Crime environment, p.45). This implies that access to illicit channels is common.
- According to a recent experiment conducted among smokers of menthol cigarettes, **a ban on menthol cigarettes would increase their preference for street vendors by 250%** (from 15% to 51%) (Coelho and Arink 2013, 33).

THE SUPPLY

•• Proximity to the main producing countries of illicit whites favours the supply.

- The Russian Federation and Ukraine are the main source countries of illicit tobacco in Europe. According to Joossens et al., sharing a land or sea border with Ukraine, Russia, Moldova or Belarus is a main determinant of the level of ITTP in a country, as confirmed by the high levels of ITTP in Latvia, Romania, Bulgaria and Poland (2011; 2012).
- For Russian or Ukrainian smugglers, the Polish market is highly profitable and it is less risky than Western Europe (WHO 2009, 35).
- **Lax enforcement** against the ITTP in eastern countries may facilitate smuggling. Most seizures of Ukrainian illicit cigarettes, for example, take place outside Ukraine in neighbouring Romania, Poland, and Hungary (Kaplan 2009, 31).

•• Price differentials on excise goods between the two sides of the EU borders foster the ITTP.

- **Prices of cigarettes are lower in extra-EU countries than in the Member States.** Polish prices are among the lowest in EU, but they are higher than in eastern neighbouring countries (Figure 33, p.69) (Eriksen, Mackay, and Ross 2012; Frontex 2012, 21; Ministry of the Interior 2012, 170-171).
- **Poland is both a destination and a source country for the ITTP.**
- Due to its position, **Poland is a transit country for illicit cigarettes bound for the Western EU markets** (see The *modus operandi* and geographical distribution, p.78) (Ministry of Finance 2012c; Tokarski 2012). Poland is in the world top ten departure countries of seized cigarettes (Eriksen, Mackay, and Ross 2012, 59). The disparities between tax levels expressed in monetary terms on cigarettes create these illicit opportunities (Lentowicz 2010).

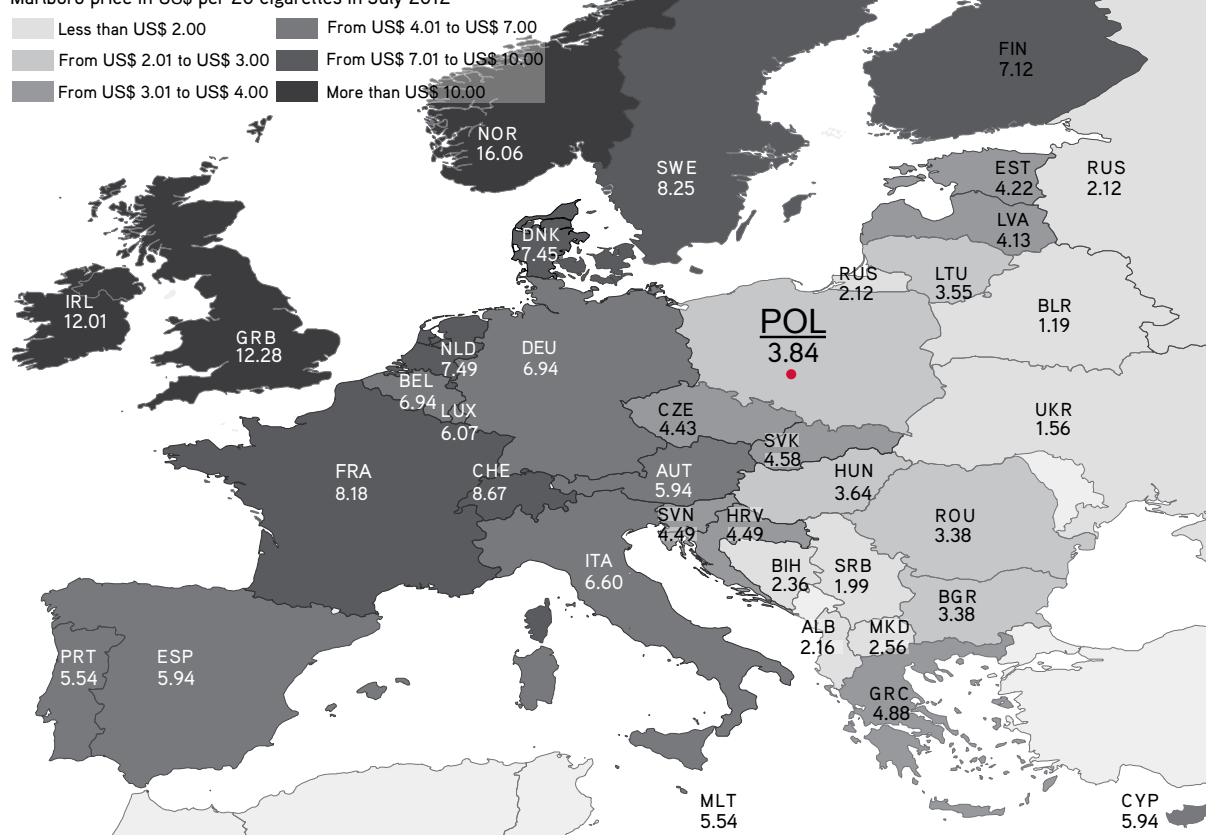
•• The high profitability of the ITTP stimulates the supply.

- **The ITTP offers high profits** (see box *How profitable is the ITTP?*, p.70). Diverting tobacco products into the illicit market, where sales are tax free, generates considerable margins for illicit traders (Joossens and Raw 2012, 232). Taxes account for a large share of the final retail price of tobacco, making it a highly profitable product to smuggle (Merriman, Yurekli, and Chaloupka 2000).
- In Poland, **the amount of total taxes per 1,000 sticks in International\$-PPP is 225.5**. In 2010, when the amount was the 29th highest in the world, it was 176.6. The Russian Federation was 140th in the world, Ukraine 88th and Belarus 139th (WHO 2012; European Commission 2013). The higher the taxes, the higher are the incentives for large-scale smuggling.
- The share of taxes out of the retail-selling price provides incentives for the ITTP at the national level. For this reason, they are mostly relevant for illicit manufacturing and wholesale/retail distribution of illicit tobacco products within the national borders. In 2013, in Poland tax incidence accounts for the 84.6% of the WAP (Weighted Average Price) and 86.5% of the most sold brand (see Regulation, p.37) (European Commission 2013). In addition to tax evasion, **lower prices of tobacco products in eastern neighbouring countries increase the attractiveness of bootlegging** (Figure 33, p.69) (Komenda Główna Policji 2010; Ministry of the Interior 2012).
- In Western and Northern European markets, the prices of cigarettes are significantly higher than in Poland. Smuggling illicit products from Poland to these countries may significantly increase the returns on the ITTP (Figure 33, p.69) (Shleynov et al. 2008; Lentowicz 2010; Ministry of the Interior 2012).

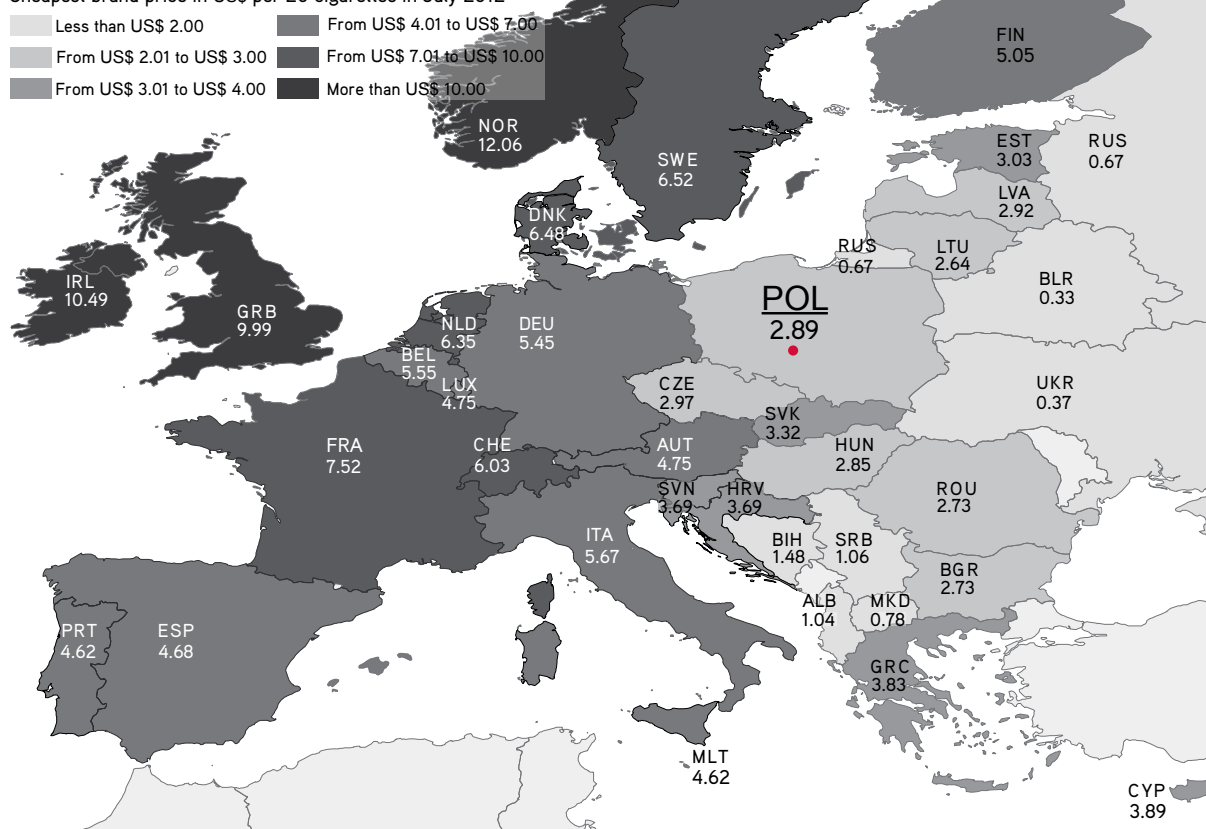
Figure 33. Marlboro and cheapest brand prices in Europe, July 2012, US\$

Source: Transcrime elaboration on GMBH PMG data

Marlboro price in US\$ per 20 cigarettes in July 2012



Cheapest brand price in US\$ per 20 cigarettes in July 2012



Note: Prices for the UK and Ireland refer to recommended retail prices. Prices for Cyprus, Estonia, Latvia, Lithuania, Malta, Romania, Slovenia and Sweden refer to maximum retail price. Norway is a free pricing market.

- For OC, the ITTP can be more profitable than drug smuggling (Lisicki 2009, 9; Lentowicz 2010). Overall, the return on investment for OC is 375%, according to the tobacco industry's estimates (EUBusiness 2010). Sanctions for tobacco smuggling are more lenient than they are for drugs, thus increasing the relative attractiveness of the ITTP (Lisicki 2009, 9; Lentowicz 2010).
- For bootleggers, the returns are not as high as they are for OC groups. However, in areas where wages are low and unemployment is widespread, the ITTP may guarantee acceptable earnings (Andrusz 2008; EUBusiness 2010).

HOW PROFITABLE IS THE ITTP?

Estimates of the profitability of tobacco smuggling consider:

- the price at which smugglers purchase tobacco products,
- the legal price of tobacco products in destination markets,
- the differential in legal and illegal prices.

Given these factors, the final figures may differ according to the level of organisation of the smugglers, their costs, and variations in retail prices.

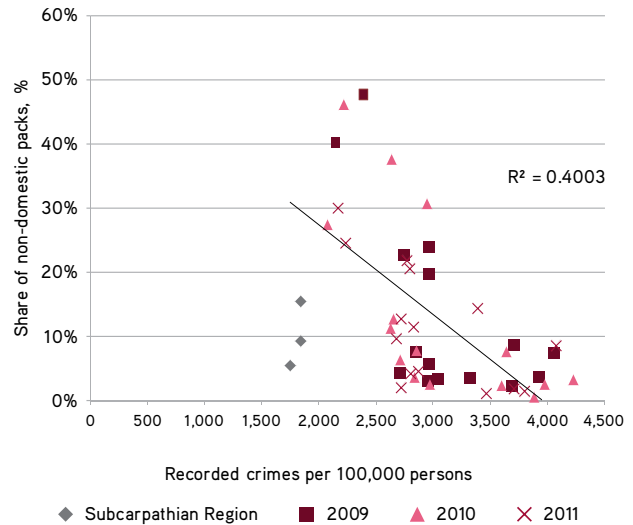
According to Lentowicz, a pack of cigarettes that crosses the Ukrainian-Polish border increase its value four times; even more if it arrives in Germany or in another EU country. He estimates that smugglers could gain a return of US\$668,100 by transferring a container filled with 100,000 packs of cigarettes from Poland to the UK (2010).⁴⁰ Other journalists estimate that returns on tobacco bought in Kaliningrad are slightly lower (EUBusiness 2010).

Shleynov et al. report that traffickers could purchase a container of Jin Ling for US\$102,500 in 2008. They hypothesise that smugglers could price their cigarettes at around half of the price of legal brands in destination countries. It follows that the expected returns would be US\$1.6 mn in Germany or Sweden, and up to US\$3.0 mn in the UK or in Norway (2008).

40. Euro/US\$ European Central Bank exchange rate on 31.12.2010.

Figure 34. Share of non-domestic packs and recorded crime rate (2009-2011)

Source: Transcrime elaboration on Ministry of Interior (2012) and ALMARES (2012) data



Note: the graph depicts 2009, 2010 and 2011 regional data. Subcarpathian regional data have an autonomous evolution.

•• Level of law enforcement may influence the supply of illicit tobacco.

- In Poland, the consumption of illicit tobacco estimated by means of EPS is higher where recorded crimes per inhabitant are lower (Figure 34).⁴¹ This correlation suggests that the supply of illicit tobacco may be independent from other criminal activities. Alternatively, it may be higher where law enforcement is less effective.

•• Two categories are active in the Polish ITTP:

- large-scale organised groups (Ciecierski 2007, 3; WHO 2009, 33; Frontex 2012, 20),
- individual or "ant" smugglers (WHO 2009, 33; Frontex 2012, 20).

41. EPSs give estimations of the penetration of the illicit market and of its evolution over time in Poland's main cities. There are several reasons for treating EPSs with caution:

- they assess non-domestic products, which include legitimately purchased cigarettes (e.g. travellers),
- figures are based on packs of cigarettes and exclude other products such as HRT or cigars,
- they do not identify domestic contraband cigarettes,
- the sample is collected at the street level and does not consider homes and workplaces.

Notwithstanding these limitations, EPSs may provide data useful for analysing the illicit cigarettes market and in particular its variations over time. Moreover, they provide estimates at the city level, which are hardly available from other sources.

- However, smuggling channels mirror other illicit markets. As, for example, drug trafficking it does not have a hierarchical supply chain, but consists of fluid networks (Pearsons and Hobbs 2001, 12).
- **The importance of OC groups is increasing.**
 - According to experts and police officers, individual smuggling is still of significant magnitude but its importance is decreasing, and now OC groups tend to control the ITTP in Poland (Message House Agencja PR 2006; WHO 2009, 33; EUbusiness 2010).
 - OC groups are active in cigarette counterfeiting and in large-scale smuggling (Europol 2011b; Drewnowska and Lentowicz 2011b). Individual smugglers bring relatively small volumes of cigarettes into Poland, and they do so in a variety of ways (WHO 2009, 33).
 - It happens that OC groups make use of violence to run their businesses (Niemczyk 2013).
- **Large-scale smuggling often involves international OC groups.**
 - In addition to Poles, the authorities have ascertained that Lithuanian, Ukrainian, and Russian speaking groups engage in the ITTP (Ciecierski 2007, 3; DNA 2010, 156; Europol 2011b; Junek 2011; Ministry of the Interior 2012, 170-171). Vietnamese organisations, instead, purchase the illicit cigarettes once they are in Germany or in the Czech Republic and manage their retail (von Lampe 2001).
 - Foreign OC groups establish their manufacturing facilities of illicit cigarettes in Poland because of:
 - Poland's EU membership,
 - the availability of a skilled labour force from abandoned Bulgarian tobacco factories,
 - active criminal networks (Ministry of the Interior 2012, 170-171).
 - Wholesale brokers have a major role in the Polish ITTP. They trade in various brands, and secure the transit of cigarettes, also by paying the necessary bribes, from the sellers to the retail networks. These players may have large financial resources and a legitimate appearance enabling them to purchase large quantities also from legal distributors or producers (von Lampe 2001).
- **A large number of people with low job opportunities earn their livings as individual smugglers. These are the Polish "ants".**
 - Unemployed persons, retirees, and students constitute the population of bootleggers and cross-border shoppers (see box *Profile of an "ant"*) (Ciecierski 2002). Their average age is twenty-seven (Lisicki 2009, 8).
 - Ants operate primarily in border areas of the East, where economic conditions are worse (Society and economy, p.21) (Andrusz 2008; WHO 2009, 33). Customs estimate that in Warmian-Masurian alone more than 10,000 individuals are involved in "ant smuggling" (WHO 2009, 33). Sociologists who are studying the phenomenon report that most smugglers register as unemployed to obtain national health care, but they have little motivation to take on badly paid legal jobs (Andrusz 2008).
 - The high differential in retail prices with neighbouring countries and a large degree of tolerance by the public incentivise individual smuggling (Lisicki 2009, 8; WHO 2009, 33; Lentowicz 2010).
 - Individual smugglers from Ukraine participate in the ITTP in Poland. They are on average thirty years old. They come mainly from Lwów, Iwonofrankowsk, Mościska, Odessa, Czerniowce, Kiev and use trains to transport their loads (Lisicki 2009, 10).

PROFILE OF AN "ANT"

Dariusz is a 34 year old smuggler from Bezledy in Warmian-Masurian. During an interview, he claimed: "I don't have any option. I live in an area where unemployment is around 40% and I have a wife and two kids. 10 years ago, I had an accident, which left me with a disabled hand. If smuggling didn't pay off, I wouldn't be doing it".

During his latest botched attempt, Dariusz was caught carrying 40 packs of cigarettes and faced a fine of PLN200 (US\$64) (EUbusiness 2010).

THE PRODUCTS

- **Polish authorities do not provide official, yearly estimates on the prevalence of illicit tobacco (Ciecierski 2007; Euromonitor International 2012c, 11).**
- Law enforcement agencies assume to seize around 10% of the smuggled cigarettes. Moving from this assessment they provide a rough estimate of the level of the ITTP (Niemczyk 2013).
- **Different unofficial estimates are available. However, there is no agreed method to measure the penetration of the ITTP (Ciecierski 2007; Euromonitor International 2012c, 11). Existing estimates are based on:**
 - multiple sources, as Euromonitor International's estimate,⁴²
 - the analysis of the EPS⁴³ and of other sources, as KPMG's estimate,⁴⁴
 - the EU Flows Model,⁴⁵
 - seizures volumes, as Niemczyk & Partners' estimate (Table 13, p.73 and Figure 35).⁴⁶
- The government adopted estimates by KPMG as benchmark to evaluate the efficacy of its anti-ITTP actions for the period 2009-2011 (Ministry of Finance 2012c, 5).

⁴². Euromonitor International's sources include the trade press, customs offices, interviews with manufacturers and retailers, as well as local knowledge of the market – for example how porous borders are, how high unit prices are, whether a market is a conduit for cigarettes versus actual consumption.

⁴³. Niemczyk & Partners estimates the penetration of the ITTP from data on seizures, evaluations of illicit products interception rates and researches conducted in open air markets (Niwserwis 2011, 6; Niemczyk 2013).

⁴⁴. KPMG conducts an annual study for PMI and OLAF as a part of the EU agreements. KPMG analyses different sources, including tobacco sales data, consumer surveys and EPSs and divides non-domestic packs between: legal non-domestic and counterfeit and contraband "c&c".

The proportion of the packs classified as c&c provides the estimate of the ITTP penetration (KPMG 2012).

⁴⁵. Flow model estimates rely on the analysis of imported, exported, produced and consumed volumes. The sum of production and imports should be equal to the sum of consumption and exports. Gaps in the equation indicate the misappropriation of certain volumes and their diversion towards the illicit one. This methodology does not consider extra EU flows and flows of illicit whites. It is therefore necessary to treat its results with caution.

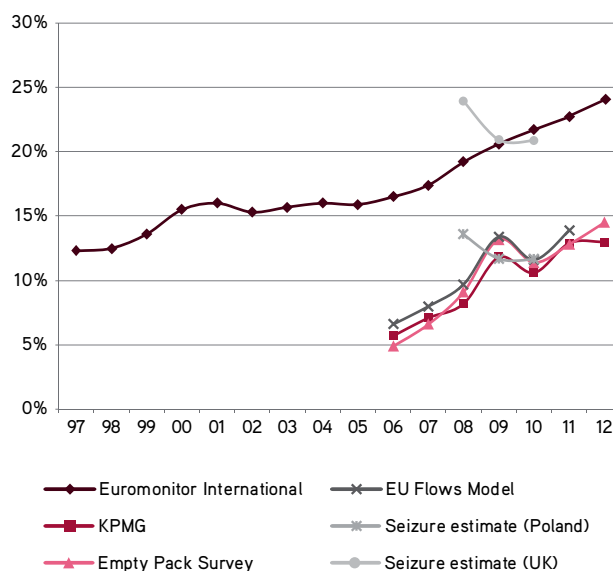
⁴⁶. See footnote 38.

•• The estimates may provide conflicting results owing to the different methodologies used.

- All methods to estimate illicit trade have their limitations. Often, studies provide limited information on the methodology adopted (Joossens 2011, 1; Niemczyk 2013).
- It is difficult to estimate the magnitude of tobacco smuggling because of its hidden and illegal nature. Furthermore, some of the illicit cigarettes circulating in Poland are bound for Western Europe and thus complicate the calculation (Ciecierski 2007; WHO 2009).
- **The ITTP is larger in Poland than in most other European countries.**
- Euromonitor International estimates the penetration of the ITTP in 80 countries. Poland has the fourteenth highest level of ITTP penetration in the world and the fourth in Europe behind Latvia, Lithuania and Ireland.⁴⁷

Figure 35. Estimates of the ITTP, 1997-2012, percentage of the legal market

Source: Transcrime elaboration on Gembicki (2011), Euromonitor International (2013b), ALMARES (2012) and KPMG (2013) data



⁴⁷. The ranking has been compiled by Transcrime on Euromonitor International data, data on Poland refers to year 2011.

Table 13. ITTP estimates. Percentage of the total market, 2000-2012

Source: Transcrime elaboration on Gembicki (2011), Euromonitor International (2013b), ALMARES (2012), Joossens et al. (2012) and KPMG (2013) data

Estimate	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Euromonitor International	15.5	16.0	15.3	15.7	16.0	15.9	16.5	17.4	19.2	20.6	21.7	22.7	24.1
Empty Pack Survey	-	-	-	-	-	-	4.9	6.6	9.1	13.2	11.4	12.8	14.5
EU Flows Model	-	-	-	-	-	-	6.6	8.0	9.7	13.4	11.6	13.9	-
KPMG	-	-	-	-	-	-	5.7	7.1	8.2	11.8	10.6	12.9	13.0
Seizure estimate (Poland) ^{a,c}	-	-	-	-	-	-	-	-	13.6	11.7	11.7	-	-
Seizure estimate (UK) ^{b,c}	-	-	-	-	-	-	-	-	23.9	20.9	20.9	-	-
Joossens et al.	-	-	-	-	-	-	-	11.0	-	-	-	-	-
Gembicki	-	-	-	-	-	-	-	-	-	-	12.0	-	-

Note: Euromonitor International estimates refer to the cigarette market only. a This estimate is based on the assumption that seizures are equal to 10% of the actual ITTP. Polish Customs Service provides this figure (Niwserwis 2011, 6). b This estimate is based on the assumption that seizures are equal to 5% of the actual ITTP. UK Border Agency provides this figure (Niwserwis 2011, 6). c In the first quarter of 2008, Customs Service went on strike; this influenced 2008 seizures.

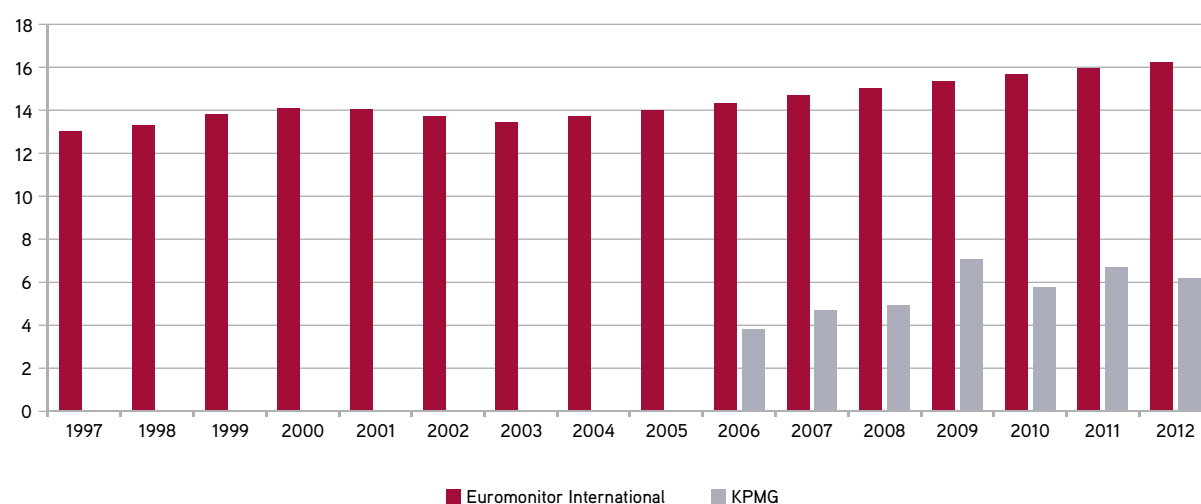
• **Penetration by the ITTP changes across time along an upward trend.**

- The consumption of illicit cigarettes expanded from 13.3 bn units in 1998 to 14.1 bn units in 2000 (+6.0%). At the same time, the volume of legal purchases decreased by 16.9%, falling from 92.7 bn units to 77.0 bn units (Figure 36). Therefore, illicit market **penetration grew by 24.0% between 1998 and 2000** (Figure 35, p.72) (Euromonitor International 2012a).

- The penetration of the ITTP was stable over the period 2000-2006. The market share of illicit products rose from 15.5% in 2000 to 15.9% in 2005 (+2.6%). This was despite the fact that it decreased by 0.7% in volume terms (Euromonitor International 2012a). According to Ciecierski, the penetration of the ITTP was steady over the period 2004-2006 at 11.0% (Figure 35, p.72) (2007).

Figure 36. Volume of the illicit market, 1997-2012, bn units

Source: Transcrime elaboration on Euromonitor International (2013b) and KPMG (2013) data



- All the available sources indicate an increase in the ITTP between 2006 and 2011:
 - +37.6% from 16.5% to 22.7% by Euromonitor International's estimate (2012a),
 - +161.2% from 4.9% to 12.8%, EPSs by ALMARES (2012),
 - +101.5% from 6.6% to 13.3%, adjusted EPSs by KPMG (2012),
 - +126.3% from 5.7% to 12.9% by KPMG's estimate (2012),
 - +110.6% from 6.6% to 13.9%, EU Flows Model (KPMG 2012).

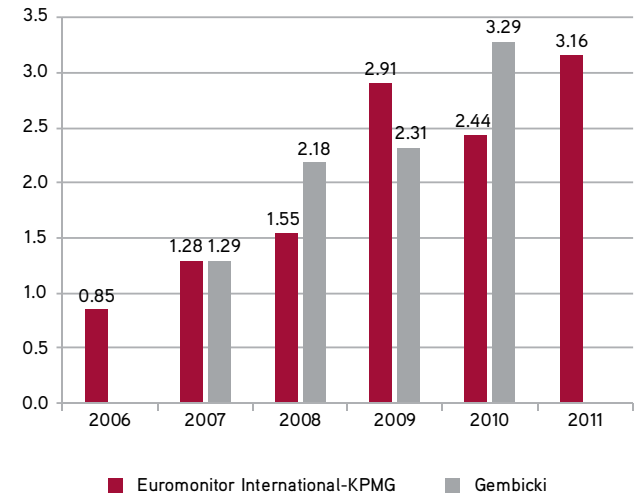
- **The ITTP also grew during 2012.** This is confirmed by the increasing share of non-domestic cigarettes in the third quarter of 2012, higher than in 2011. (ALMARES 2012; Euromonitor International 2013b). KPMG considers the level of the ITTP to be stable since 2011 (Table 11, p.61) (KPMG 2013).

•• **The ITTP causes important revenue losses.**

- OLAF and experts of other institutions estimate that, in 2010, EU governments lost between US\$9.3 and US\$13.4 bn in taxes because of the ITTP (EUbusiness 2010; Lentowicz 2010; Drewnowska and Lentowicz 2011a; Ministry of Finance 2012c, 3).⁴⁸
- Experts and the media assert that, in Poland, tobacco smuggling causes more than PLN3.0 bn (US\$1 bn) of tax losses per year (Onet 2011; Gembicki 2011, 10; Tokarski 2012).⁴⁹ Rough estimates based on tobacco sales data, illicit market penetration, and average taxation show similar figures (Figure 37).
- According to the Polish Ministry of Finance, with no interventions, the illicit trade penetration could reach 22% by 2014, with estimated losses for the national budget of PLN3.3 bn per year (Ministry of Finance 2012c, 3).

Figure 37. Tax loss caused by the ITTP, 2006-2011, PLN bn

Source: Transcrime elaboration on Euromonitor International (2012a), KPMG (2012) and European Commission – Directorate General Taxation and Customs Union Tax policy data



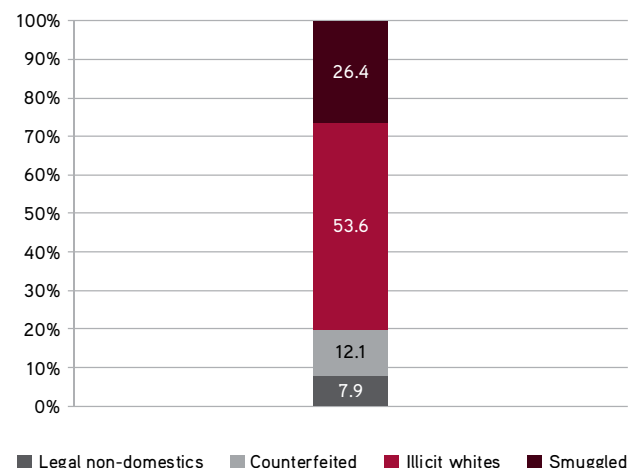
Note: The Euromonitor International-KPMG estimate is based on market value data by Euromonitor International and illicit penetration data by KPMG. PLN 2.9 bn of tax losses are equivalent to 0.47% of total Polish public expenditure in 2011.

•• **There are various illicit tobacco products in Poland:**

- illicit whites,
- smuggled cigarettes,
- counterfeit cigarettes,
- unbranded loose tobacco (Euromonitor International 2012b, 2; ALMARES 2012; Tokarski 2012).

Figure 38. Polish illicit market by type of product, 2011

Source: Transcrime elaboration on KPMG (2012) and ALMARES (2012) data



⁴⁸ Euro/US\$ European Central Bank exchange rate at 31.12.2010.

⁴⁹ PLN/US\$ European Central Bank exchange rate at 31.12.2012.

- **Illicit whites are the most widespread illicit tobacco product (Figure 38, p.74).**⁵⁰
- **In 2011 and in 2012 illicit whites accounted for approximately 54% of non-domestic cigarettes** (ALMARES 2012). 2012 EPS reports the spread of Fest, Minsk, Premier, Kiss, NZ, Austin, Magnat, Queen. KPMG catalogues these brands as emerging illicit whites (2012, 48; ALMARES 2012).
- According to the last EPS, Neman Grodno Tobacco Factory (NGTF) is the principal manufacturer of the illicit whites consumed in Poland. NGTF produces 40% of the Polish non-domestic cigarettes, and its diffusion is increasing. Its brand, Premier, is the second most widespread brand (11.1%) among non-domestic ones and the first among illicit whites brands. NGTF also commercialises Fest (8.3% of non-domestic cigarettes), Minsk, NZ, Queen, Magnat (ALMARES 2012, 13-15).
- NGTF is a Belarusian public company leader in its national market. It manufactures its own brands as well as cigarettes for BAT, JTI and IT (Euromonitor International 2012c).
- The EPS conducted in the third quarter of 2012 indicated Jin Ling (see box *Jin Ling*) as accounting for 3.0% of non-domestic cigarettes. Jin Ling is a famous brand of illicit whites whose diffusion fluctuates in time (ALMARES 2012).
- **Smuggled cigarettes are the second component of the Polish black market.**
- **Smuggling accounted for around a quarter of the ITTP in both 2011 and 2012.** This figure represents approximately 3.6% of the entire Polish market, and it comes from EPS data and estimates of the level of cross-border legal purchases (ALMARES 2012).

- Viceroy packs by BAT are the most common among non-domestic cigarettes (16.4% of non-domestic cigarettes in the last EPS). Around 10% of all BAT cigarettes come from abroad. The incidence of non-domestic packs is also high for Classic by IT (10.8% according to the last EPS) and for Marlboro by PMI (5.2%). Brand fluctuations between consecutive EPSs may be significant (ALMARES 2012).

JIN LING

Jin Ling is the main European brand of illicit whites. It started to flow from the Russian exclave of Kaliningrad into Poland in 2005; in 2011 it occupied 3.0% of the Polish black market with a decrease of 50% with respect to 2009 (Europol 2011b, 32; KPMG 2012, 49).

Baltic Tobacco Factory (BTF) is the company behind the production of these tax-free cigarettes. BTF bought its facilities in the Russian Federation and Ukraine from subsidiaries of JTI Group; its manufacturing now takes place in Russia, Ukraine, Moldova, and most of all in Kaliningrad, a well-known hot spot for smuggling and OC.

From Kaliningrad, smugglers move billions of Jin Ling cigarettes directly to Poland, or transport them by sea and inland routes to other European markets. There are criminal networks trafficking this product in at least twelve countries — Germany, the UK, Poland, Latvia, Romania, Greece, Turkey, Italy, Bulgaria, the Netherlands, Belgium and France (Shleynov et al. 2008; Hauptzollamt Rosenheim 2012).

Packs of Jin Ling are clearly illegal because they lack the mandatory health warnings. However, some Jin Ling packs found in Europe bore “duty free” stickers, or counterfeit Russian tax paid stamps, apparently as a marketing tactic to confer prestige and credibility on the product (Shleynov et al. 2008).

BTF imports tobacco from Argentina, Brazil, but most of all from African countries like Malawi, Zambia and Zimbabwe. The paper used in the production instead comes from Sweden (Anon. 2008).

⁵⁰. Illicit whites are legally manufactured in a country, but normally they are smuggled into countries where they have no legal market. Manufacturers usually pay taxes in the production country while evading them in destination countries (Allen 2011b, 5).

•• **The smuggling of raw tobacco and other tobacco products is rising.**

- Reorganisation of the tobacco market in 2009 facilitated uncontrolled access to raw tobacco. This situation caused an increase in the number of illegal tobacco factories (see Polish tobacco market, p.29). Cost effectiveness is comparable to that of counterfeiting, but the funds necessary to start and operate are smaller (Ministry of the Interior 2012, 172).
- The mounting threat from counterfeiting and illicit production is evidenced by the increasing number of detected illegal manufacturing facilities (see The fight against the ITTP in Poland, p.54) (WHO 2009, 34).
- According to experts, the demand for raw tobacco is increasing because it is cheaper than illicit cigarettes (WHO 2009; Tokarski 2012). The introduction of duties on green leaf in January 2013 has caused a partial shift of the commerce of this product on the internet and in open air markets where it is possible to buy it illegally evading taxes (Niemczyk 2013).

- The smuggling of cigars and cigarillos is also expanding (WHO 2009).

•• **Counterfeits are the third component of the ITTP.**

- The latest available EPS indicates that the share of counterfeits of the four main multinational companies is 2.2% of the entire market and 15.2% of non-domestic packs. **The diffusion of counterfeits is increasing** (ALMARES 2012).
- In recent years, criminals have mostly targeted IT and PMI brands. The last EPS found that 8.0% of packs by IT and 2.1% of packs by PMI were counterfeits (ALMARES 2012).
- Data on the incidence of counterfeit packs of PMI in 2011 are available for all the EU countries, so that comparisons may be made. In 2011, the penetration of PMI counterfeits in Poland (1.0%) was below the average of both the countries on the eastern borders (2.0%) and the rest of Europe (4%) (KPMG 2012, 42; ALMARES 2012).

PRICE AND ORIGIN OF ILLEGAL TOBACCO PRODUCTS

•• **The consumption of illicit products allows large savings.**

- Illicit prices tend to vary in time, across the country and according to the channels of distribution. Smugglers tend to change their prices according to increments in legal prices and to the level of competition on the black market (Drewnowska and Lentowicz 2011b; Niemczyk 2013).
- The low prices of illicit cigarettes make them extremely convenient for consumers. **Buying smuggled cigarettes or illicit tobacco allows a saving of around 65% of the price** (Andrusz 2008; Joossens et al. 2009, 13; Otto 2013). However, it has been observed that, during 2011, the price of illicit cigarettes passed from around 30 % to around 70 % of the price of cigarettes on the legal market. In 2012, prices of illicit products slightly decreased (Niemczyk 2013).
- A pack of cigarettes smuggled from Ukraine may cost US\$2.70 (Lentowicz 2010), while the price of Jin Ling is around US\$2.00 per pack (Sobczyk 2011).⁵¹ During an investigation conducted in January 2013, experts from PMI observed that illicit packs of menthol cigarettes cost between US\$2.08 and US\$2.30 (Coelho and Arink 2013). Considering these prices, the saving would be around 35%; significantly less than observed by other sources.
- On web forums such as *oglaszamy24.pl* or *olx.pl*, people sell 20-cigarette packs for PLN4.5-PLN6.0 (US\$1.38-1.84).⁵² Most of the cigarettes offered bear the Red Marlboro logo. Prices may vary according to purchased quantities and the bargaining process.
- It is possible to buy a kg of smoking tobacco on the Internet, for PLN100 (US\$30.6) saving 38.5% on the legal price of PLN260 (US\$79.6) (Tyszkla 2012).

51. Euro/US\$ European Central Bank exchange rate at 31.12.2010.

52. PLN/US\$ European Central Bank exchange rate at 31.03.2013.

THE DEVALUATION OF THE BELARUSIAN RUBLE

In 2011, Belarus faced a harsh economic crisis. National currency devaluated by 63.6% between May and December 2011. The devaluation of the Belarusian Ruble increased the price gap between Polish and Belarusian cigarettes, attracting cross-border purchasers and smugglers. Consequently, tobacco sales volumes grew by 16% during 2011, despite the stability of domestic demand.

According to Belarusian official figures, the value of cigarette exports was US\$1.95 mn in 2010 and US\$2.3 mn in January-July 2011, but the Head Department of Combating Economic Crime estimates the value of cigarette exports at US\$490.0 mn – more than two hundred times higher (Euromonitor International 2012c).

- **Russia, Ukraine and Belarus are the source countries of illicit tobacco products (Gumkowski, Przewozniak, and Zatoski 2006; Message House Agencja PR 2006; Ciecierski 2007, 14-15; Euromonitor International 2012c, 11).**
- In 2011, they accounted for 74.3% of the illicit tobacco products circulating in Poland (Figure 39) (KPMG 2012). EU accession and increase in eastern border controls since 2004 have only marginally changed this situation (Euromonitor International 2012b, 11).

- Since 2009, also Moldova has become an important source country of illicit tobacco products. More than 0.54 bn cigarettes illegally entered from Moldova in 2011 (7.5% of the total) (Figure 39) (KPMG 2012, 208). According to 2012 data, the share of Moldovan cigarettes dropped to 1.5% of non-domestic cigarettes.

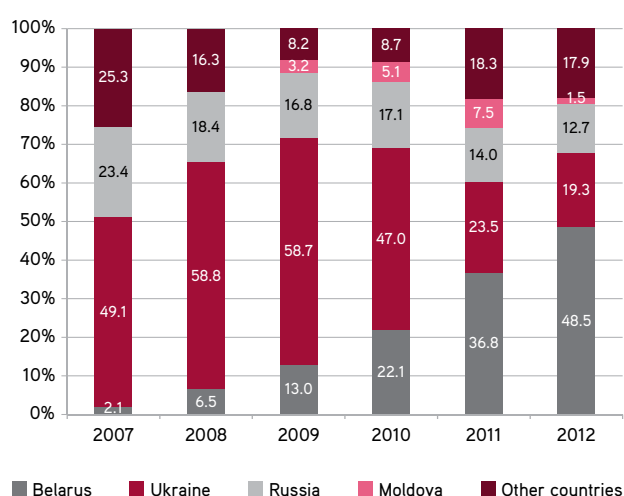
- Less frequently, Armenia, Kazakhstan and China are the sources of illicit tobacco products (WHO 2009).

• Belarus has surged as the main country of origin of illicit tobacco products.

- In 2007, Belarusian cigarettes accounted for 2.1% of the black market. Between 2007 and 2011, smuggled volumes increased more than twenty-three times from 0.11 bn cigarettes to 2.66 bn. The severe economic crisis that hit Belarus in 2011 amplified the differential in prices between the two countries, thus accelerating this process (see box *The devaluation of the Belarusian Ruble*). Today more than 35% of Polish illicit cigarettes come from Belarus (Figure 39 and Table 14) (KPMG 2012, 208; ALMARES 2012, 11).
- Volumes from Ukraine increased by 182% between 2006 and 2009 and then decreased by 63% between 2009 and 2011 (Table 14). Estimates indicate that a volume of 1.70 bn cigarettes consumed in Poland illegally entered from Ukraine during 2011 (KPMG 2012, 208).

Figure 39. Illicit cigarettes by country of origin, 2007-2012, %

Source: Transcrime elaboration on KPMG (2012) and ALMARES (2012) data



Note: 2012 data refer to non-domestic cigarettes, not to illicit cigarettes.

Table 14. Illicit cigarettes by country of origin, 2007-2011, bn sticks

Source: Transcrime elaboration on KPMG (2012) data

	2007	2008	2009	2010	2011
Belarus	0.11	0.38	1.04	1.39	2.66
Ukraine	2.58	3.42	4.71	2.96	1.70
Russia	1.23	1.07	1.35	1.08	1.01
Moldova	-	-	0.26	0.32	0.54
Other countries	1.33	0.95	0.66	0.55	1.32

MODUS OPERANDI AND GEOGRAPHICAL DISTRIBUTION

THE MODUS OPERANDI

- **The Polish Ministry of the Interior divides the national ITTP into three categories (see The products, p.72):**

- smuggling of tobacco products,
- counterfeiting of cigarettes and tax stamps,
- illegal manufacturing of HRT and unbranded tobacco products (Ministry of the Interior 2012, 171).

- **Smuggling is the main form of ITTP in Poland (Ministry of the Interior 2012, 171).**

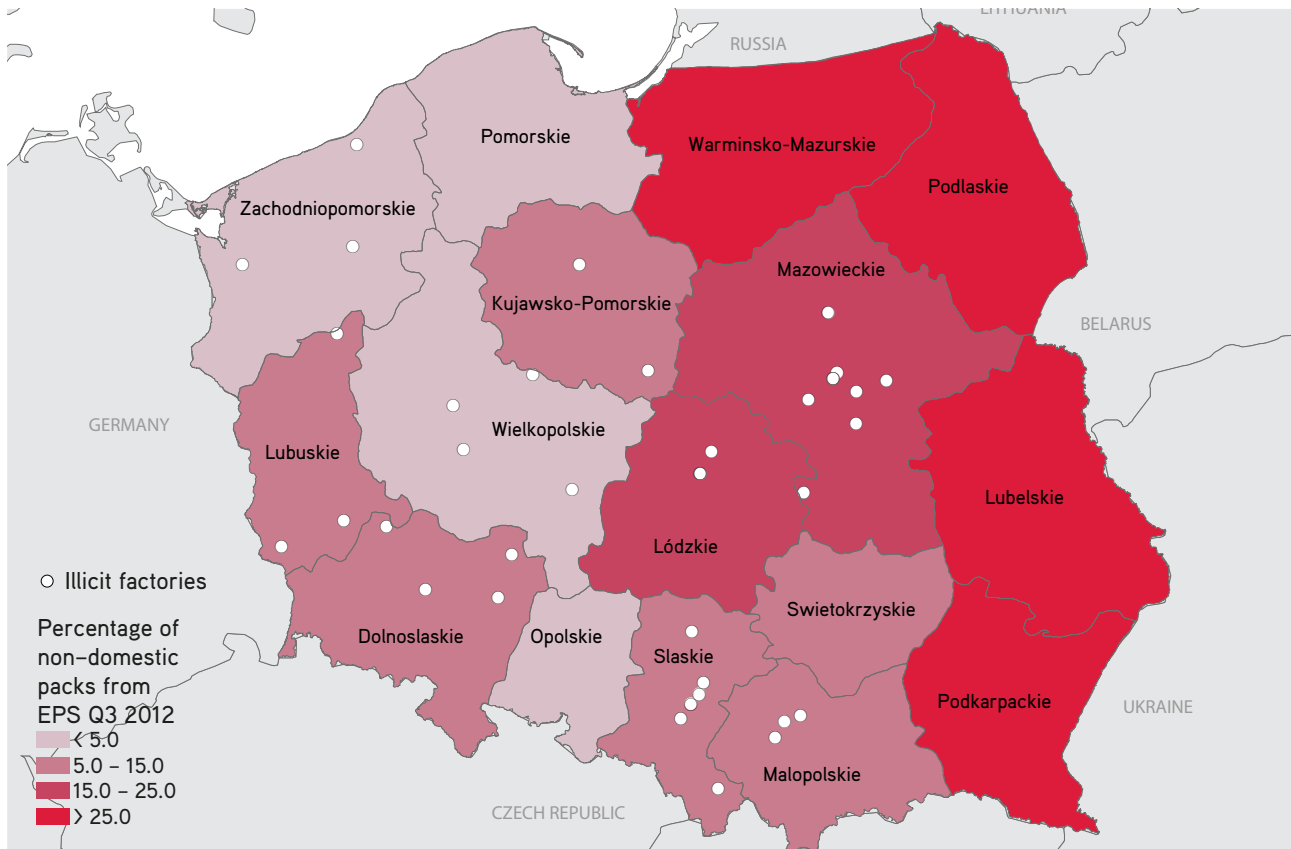
- The prominent role of smuggling is confirmed by the EPSs (see The products, p.72), the large number of seizures along the borders (see Enforcement, p.51), and stakeholders' analyses (ALMARES 2012; RILO 2010; Ministry of the Interior 2012).

- **Poland is a source of counterfeit cigarettes (Europol 2011b, 36).**

- Recently, the effectiveness of the fight against the ITTP has increased the risk of detection along the borders (see Enforcement, p.51). For this reason, OC groups have moved cigarette production closer to final consumers (WHO 2009, 34; Europol 2011b).
- Counterfeiters use low-cost machinery from Asia or from manufacturers who left the market. The investment pays off even if only one container of cigarettes is sold (Gounev and Bezlov 2010, 128).
- Ukrainian, Lithuanian and Polish criminals cooperate in counterfeiting. The Police have observed the recurrence of joint schemes based on the importation of raw tobacco from Ukraine, of other materials from Lithuania, and manufacture in Poland (Europol 2011b).

Figure 40. Detections of illicit tobacco factories in Poland between 2005 and 2013

Source: Transcrime elaboration on Policja (2013), PMI (2013) and international news data



- Police has never detected any illicit factory in any of the regions along the eastern borders where, according to all the sources, the penetration of the ITTP is higher (see The geographical distribution, p.83). Production takes place in central (in particular in Mazowieckie), southern (Śląskie) and eastern regions (Lubuskie and Dolnośląskie) (Figure 40, p.78). The bootlegging afflicts more eastern regions than the rest of the country (Andrusz 2008; WHO 2009, 33). Illicit manufacturers probably prefer to install their factories where there is not an overstocked black market.
- A second flow of illicit cigarettes from Greece and Bulgaria concerns the south-eastern borders between Poland and Slovakia (Ministry of the Interior 2012, 171-172).
- The importance for the ITTP of the Balkan Route has increased in recent years because of the spread of illicit whites manufactured in Eastern Europe. Genuine and counterfeit cigarettes also pass along the Balkan Route and then through Poland (see Crime environment, p.45) (Europol 2011b, 32).
- **The increasing demand for HRT and the evolution of the legal framework of the Polish markets have led to the appearance of illicit manufacturers of HRT.**
- **The ITTP in Poland is part of a larger network (Ciecierski 2007). Significant amounts of contraband tobacco are re-exported to Western Europe (Euromonitor International 2012b).**
- **There are two types of smuggling in Poland:**
 - **large-scale smuggling,**
 - **individual or “ant” bootlegging (WHO 2009, 33).**
- **Individual smugglers may cooperate with OC groups.**
- Ants carry cigarettes across the border and deliver them to designated places, usually illegal warehouses. OC groups collect the goods and move them to local markets and fairs around the country, or to the rest of the EU (WHO 2009, 33; EUBusiness 2010).
- Warehouse owners often play an active role in the ITTP and can establish long-term relations with the other actors involved in the traffic (Gounev and Bezlov 2010, 128).
- **North-eastern borders are the main entries for illicit tobacco.**
- Smugglers bring cigarettes into the country mostly across the **north-eastern borders with Lithuania, Ukraine, Belarus and Russia** (Gumkowski, Przewozniak, and Zatonski 2006; Ministry of the Interior 2012, 171-172). Interviewees identified Białystok, bordering on Belarus, and Przemyśl and Medyka, bordering on Ukraine, as locations where large-scale cross border bootlegging takes place (Gounev and Bezlov 2010, 129).
- Smugglers introduce cigarettes into the EU across Poland's borders and then exploit the weaker controls within the EU to move them to other Member States (Locke 2010; Europol 2011b, 30).
- Trade and travel between Poland and Western Europe have become easier since Poland joined the EU (in 2004) and signed the Schengen Agreement (in 2007). This has increased Poland's role as an exporter of contraband cigarettes to Central and Western Europe (Locke 2010; Euromonitor International 2012b, 11).
- Experts estimate that 60-70% of all cigarettes smuggled into Poland are sold in the country, while the rest move to other European countries, particularly Germany, UK and Northern countries where tobacco prices are much higher (WHO 2009, 33; Europol 2011b, 30; Gazeta 2011; Frontex 2012, 19; Euromonitor International 2012b). In 2011, 19.0% of the illicit cigarettes in the UK came from Poland, in Germany 46.0% (KPMG 2012).
- Several factors testify to the importance of contraband to the EU:
 - packs of Polish cigarettes collected in Western Europe (KPMG 2012),
 - seizures of smuggled cigarettes along Poland's south-western borders (June 2011),
 - substantial seizures of cigarettes appreciated by the British market, such as Superkings, Regal or Dorchester (June 2011),
 - international investigations as the one conducted by Italian law enforcement agencies (DNA 2010, 166).

- According to Customs officers, since Poland intensified its fight against the ITTP and tobacco seizures increased (see Enforcement p.51), OC groups have focused on other countries to bring smuggled cigarettes into the EU (Warsaw Business Journal 2011).
- **The *modi operandi* of smugglers are diverse and exploit a multiplicity of means of transport (Frontex 2012, 20).**
- Road vehicles are the primary means of transport for the ITTP. Smugglers use them to enter, move and transfer the illicit tobacco products to other countries. In 2011, seizures on wheeled vehicles accounted for 78% of the total (74% in 2009, 72% in 2010) (WHO 2009, 33; Ministry of the Interior 2012, 171-181).
- Minivans and lorries with hidden compartments in false floors, walls and double-walled fuel tanks are common. However, smugglers may simply fill a car as much as they can and try to cross the border (see box *Cigarette transporters*) (RILO 2010; EUbusiness 2010; Junek 2011). Police forces have also observed the use of off-road vehicles and tractors at green borders (Frontex 2012, 20).
- Road transport smuggling takes place both on highways from Eastern Europe and Lithuania to Poland and roads to Germany, Czech Republic, and Slovakia (Figure 41, p.81) (Lisicki 2009, 10-11).
- **Both OC and individual smugglers exploit railways.**
- OC exploits railway cargo traffic to hide and enter large volumes of illicit products, while individual smugglers secrete cigarettes in passenger carriages. In many cases, the smuggler remains unknown because Customs services find cigarettes in hidden places and no passenger admits that the cigarettes belong to them (Lisicki 2009, 10).
- Cargo traffic flows across the border crossing points of Skandawa and Braniewo with Russia, Terespol, Małaszewicze, Kuźnica and Siemianówka with Belarus and Dorohusk, Medyka-Żurawica, Hrubieszów and Werchrata with Ukraine. Individual smugglers concentrate on short-distance international trains crossing the borders at Braniewo, Czeremcha, Dorohusk, Krościenko, Kuźnica, Przemyśl, and Terespol (Figure 41, p.81) (Lisicki 2009, 10).

CIGARETTE TRANSPORTERS

“A vehicle is loaded up to the roof with cartons of cigarettes in Ukraine and the driver travels at least at 200 km per hour on the Polish motorway. This way, hardly anyone will catch up with him”, said a source involved in the fight against smuggling. “Smugglers recruit drivers among former soldiers of the Russian army. If they have a car crash somewhere or if they risk being caught, they abandon the car and run away”, he added (Junek 2011).

Border guards detected a BMW speeding near Sulejow, in Central Poland. The driver did not stop when requested and sought to escape along back roads. Bad weather conditions caused the driver to lose control of the vehicle. The driver locked himself inside and did not react when asked to leave the vehicle. Only by breaking the window and disabling the 35-year-old man could the customs officers inspect the car. Officers found 8,670 packs of smuggled cigarettes with a market value of over PLN65,000 (Lisicki 2009, 16).

Police intercepted an Audi carrying 20 thousand packs of cigarettes without Polish excise stamps. The value of these cigarettes on the black market would have been about PLN200,000. 42-year-old Jacek W. and 33-year-old Daniel T. were arrested. Both of them had already been punished for similar offences. (Komenda Główna Policji 2012).

- Customs agencies have intercepted cigarettes concealed within shipments of all kinds, from footballs to horse food (Shleynov et al. 2008; EUbusiness 2010; European Commission 2012a).
- **The *modus operandi* of ants.**
- **Ants cross borders several times a day to buy lower-priced products in neighbouring countries** (see box *The experience of Mlynarski*, p.81). They carry cigarettes in their luggage or on their bodies in outer clothing. The goods are then resold in street markets around Poland (Ciecierski 2002; Lisicki 2009).
- Medyka in the South-East is the principal pedestrian border crossing for the ITTP (Figure 41, p.81). Seizures indicate that individual smugglers traffic mostly in LM, Prima and Classic (Lisicki 2009).

THE EXPERIENCE OF MLYNARSKI

Mlynarski, a 25-year-old unemployed builder crosses the Ukrainian border as many as four times a night. Each time, he returns with at least one carton of 200 cigarettes, which he sells in the bars of his home town, Przemyśl, 15 km from the EU's eastern frontier (Andrusz 2008).

• Large-scale traffickers also use sea transport.

- Smugglers target the ports of Gdynia and Szczecin on the Baltic Sea mainly to import Chinese cigarettes (Figure 41). Experts consider the impact of this kind of smuggling to be marginal. Nevertheless, the two ports are hotspots for tobacco seizures (Figure 42, p.82) (WHO 2009; Ministry of the Interior 2012, 171-172).
- Traffickers use small boats to move tobacco products along and across the River Bug, which marks the border between Poland, Ukraine and Belarus (Frontex 2012, 20).

• Smugglers make use of corruption to bring cigarettes into Poland.

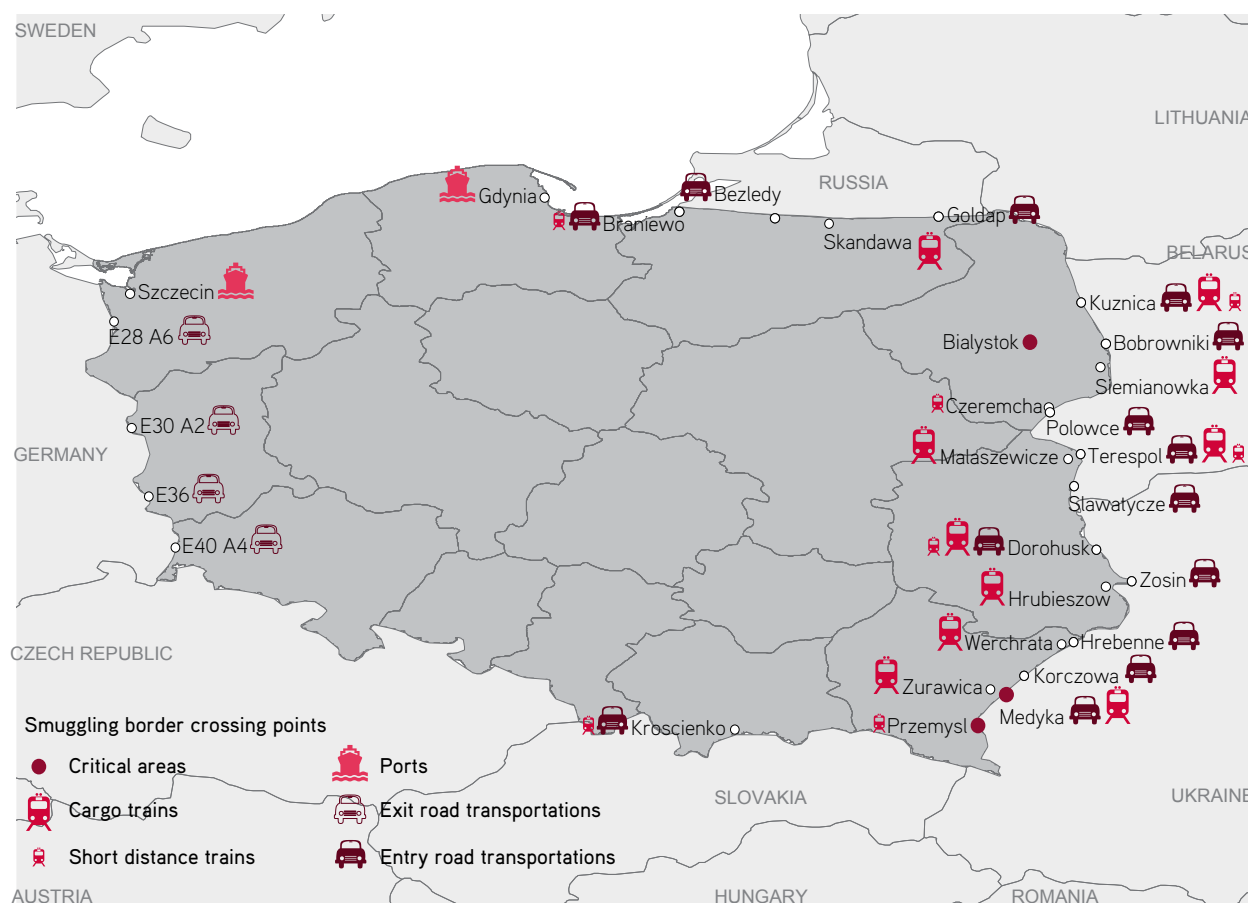
- The high profits deriving from the ITTP enable smugglers to corrupt customs and police officers to facilitate the entry and transfer of illicit tobacco products. In addition to public officials, smugglers bribe warehouse owners, truckers and train drivers (Shleynov et al. 2008; Lentowicz 2010).

• Smuggling schemes based on the use of postal-courier services and Internet are emerging (WHO 2009, 33).

- Disclosures of the postal smuggling of cigarettes numbered 207 in 2009 and 356 in 2010; in 2011, the number dropped to 181 because raw and unbranded tobacco replaced cigarettes. In 2009, four disclosures of tobacco occurred. In 2010, 2,428 seizures of tobacco were made in the postal service, and in 2011 the number grew to 6,131 (Ministry of the Interior 2012, 183).

Figure 41. Border-smuggling hot spots

Source: Transcrime elaboration on RILO (2010) data



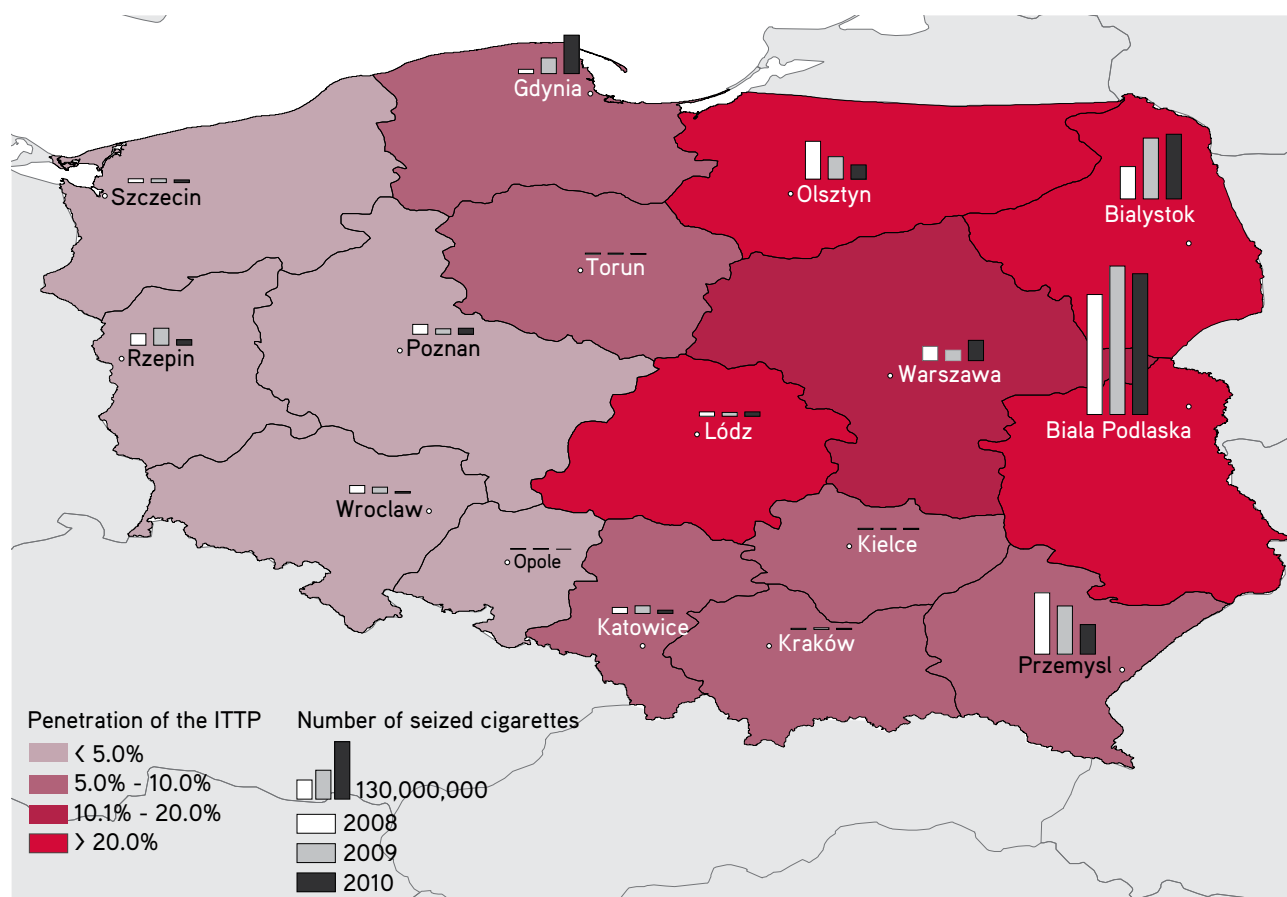
- In the period 2009-2011, the ITTP on the Internet expanded (Ministry of Finance 2012c, 12).
- **Open markets are the main points of sale for illicit tobacco products.**
- Consumers purchase illicit cigarettes mostly from street vendors (83.0%) and in open markets (42.4%) (Ciecierski 2007, 19). In the East, consumers may directly purchase cigarettes from the smugglers and from warehouses. In central Poland, distribution of illicit tobacco products mainly takes place in open air markets (Niemczyk 2013).
- Actions by the Customs Service are increasing also in areas far from the borders, forcing smugglers to take precautions (see box *The ITTP in the open markets*) (Message House Agencja PR 2006; Niemczyk 2013). However, experts consider control over these places to be low. Eventually, corruption might reduce controls' effectiveness (Message House Agencja PR 2006; Ciecierski 2007, 4-19; Niemczyk 2013).
- The purchase of illicit products from acquaintances is a common way to save on tobacco, and with low risks (Message House Agencja PR 2006).
- **Smuggling, especially of cigarettes, is increasingly fragmented.**

THE ITTP IN THE OPEN MARKETS

Smugglers who sell cigarettes in open markets today tend to have a clear division of roles. A first person takes the order; a second person reports the order to those who hold the goods in storage spaces. To reduce the risks, lookouts warn of controls, and the people offering goods tend to carry only a single pack or empty packs of cigarettes. They provide larger amounts only after reaching agreement with the purchaser (Ministry of Finance 2012c, 8). On average, the consumers of illicit cigarettes buy three times more packs per each purchase than do buyers of legal cigarettes (Message House Agencja PR 2006, 60).

Figure 42. Cigarette seizure hotspots, 2008-2010

Source: Transcrime elaboration on RILO (2010) data



- **Smugglers tend to subdivide their loads so as not to lose them entirely in the case of detection** (RILO 2010). In 2011, the Customs Service reported more individual disclosures than it did in 2009 and in 2010; however, it intercepted a smaller amount of cigarettes. This trend is particularly evident in relation to seizures on road transport vehicles, in bazaars, and in open markets (see Enforcement, p.51) (Ministry of the Interior 2012, 181).

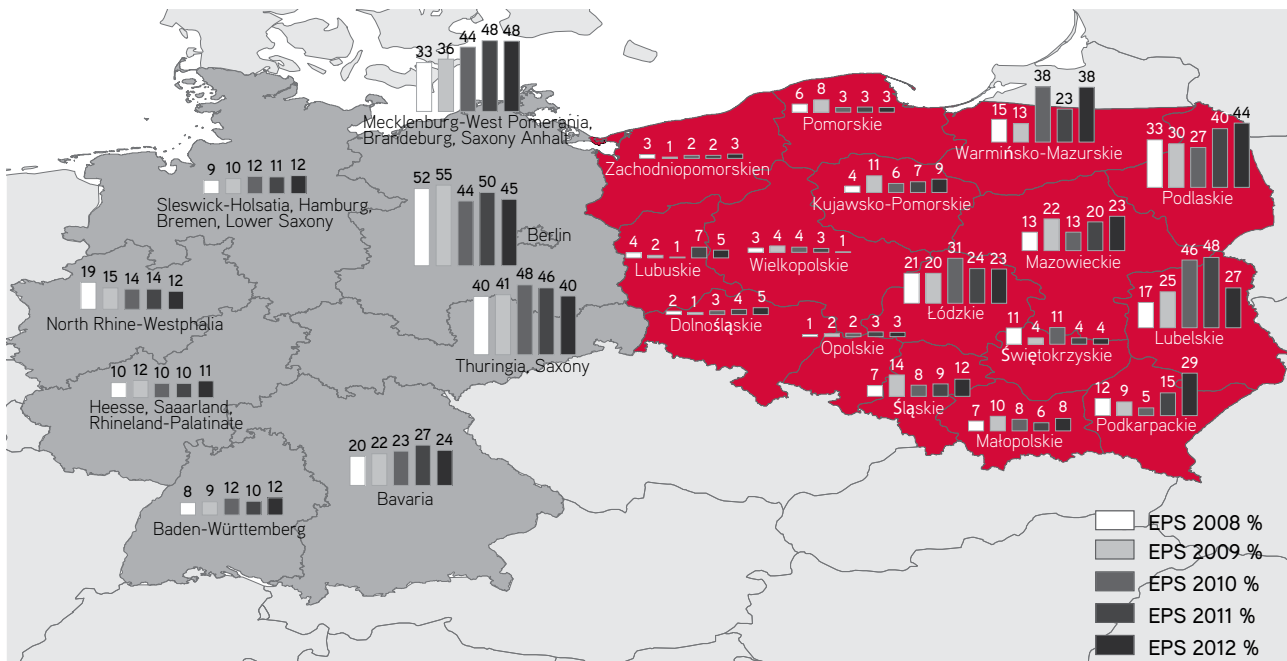
THE GEOGRAPHICAL DISTRIBUTION

- **The ITTP is much more widespread in the East of the country.**
- The available sources indicate **strong and persistent regional disparities and a greater diffusion of the ITTP in the eastern regions** (Gumkowski, Przewozniak, and Zatonski 2006; Shleyenov et al. 2008; WHO 2009; EUBusiness 2010; ALMARES 2012).

- The EPS of the third quarter of 2012 found that the north-eastern regions of the Podlaskie (35.6%), Warmińsko-Mazurskie (32.3%) and Lubelskie (28.1%) had the highest levels of non-domestic cigarettes (Figure 43) ⁵³ (ALMARES 2012).
- Warmińsko-Mazurskie and Lubelskie have the highest penetrations of *Jin Ling*; 35.2% and 7.8% of non-domestic cigarettes respectively (ALMARES 2012). These figures testify that cross-border purchasing may only partially explain cross-regional differences in the level of non-domestic cigarettes.
- At certain times in the recent past, the share of illicit cigarettes in these eastern regions has been even higher, approaching 50% of the regional tobacco market (Figure 43) (Message House Agencja PR 2006; Biznes 2011; ALMARES 2012).

Figure 43. Geographical distribution of non-domestic packs in Poland and Germany, 2008-2012

Source: Transcrime elaboration on ALMARES (2012) data



⁵³ In these bordering regions of the East, the number of cross-border purchasers is probably higher than in the rest of the country, so that that the share of illicit cigarettes among non-domestic cigarettes is lower.

- The entry into force of Schengen Agreement in 2007 caused the removal of customs barriers between Lithuania and Poland. Control along this border decreased, favouring the increment of the ITTP in this area (RILO 2010, 15; Niemczyk 2013).

•• **Conversely, the penetration of the ITTP is low in the West and the South.**

- Świętokrzyskie (3.8%), Pomorskie (3.2%), Zachodniopomorskie (3.0%), Opolskie (2.9%), Wielkopolskie (0.5%) have the lowest shares of non-domestic packs (ALMARES 2012).

- In Pomorskie, Świętokrzyskie and Opolskie, police never discovered any illicit tobacco manufacturing facility (Figure 40, p.78). The scarce local production contributes to explain the relatively low level of the ITTP in these areas.

•• **Shares of smokers purchasing illicit cigarettes reflect differences in the levels of the ITTP.**

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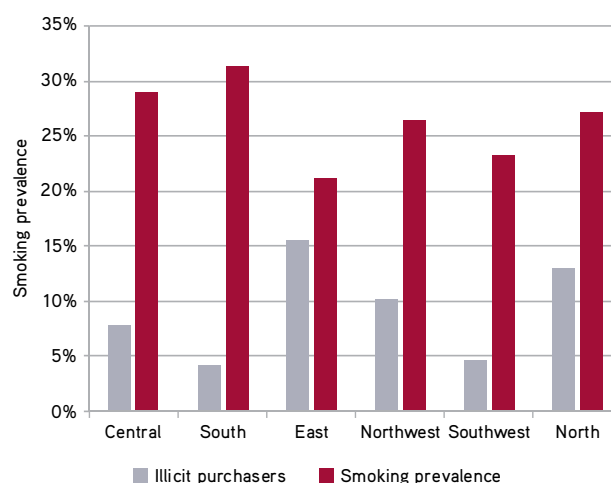
- In the East (15.5%) and in the North (13.0%) the share of people purchasing illicit tobacco is higher than in the rest of the country. Again, the South (4.3%) and the South-West (4.6%) record the lowest shares of smokers purchasing illicit tobacco (WHO 2011a, 116).

•• **Proximity to the lucrative German market may reduce the availability of illicit cigarettes in Western Poland.**

- The price differential between legal cigarettes in Poland and Germany is high. In Germany, Marlboro cost 81% more than in Poland and the cheapest German brand costs 89% more than the cheapest Polish brand (as of July 2012) (Figure 33, p.69) (Philip Morris GMBH 2012).
- Thus the return on smuggled cigarettes in Germany may be significantly higher than in Poland (Message House Agencja PR 2006, 55; Drewnowska and Lentowicz 2011b; Ministry of the Interior 2012). Consequently, smugglers prefer to supply the eastern part of Germany instead of Western Poland, thus partially explaining the strong regional difference of ITTP in Poland (Figure 43, p.83) (Niemczyk 2013).

Figure 44. Share of smokers purchasing illicit cigarettes by area

Source: Transcrime elaboration on GATS (2010) data



•• **Consumption of illicit tobacco does not reflect the differences in smoking prevalence.**

- Regional data do not show a correlation between smoking prevalence and the ITTP. In Eastern Poland, where the smoking prevalence is the lowest, the purchasing of illicit products is more widespread than in the rest of the country. The opposite is the case in the South, where there is the highest smoking prevalence and the lowest share of consumers of illicit products (Figure 44) (The Maria Skłodowska-Curie Institute, Medical University of Warsaw, and Centers for Disease Control and Prevention 2010).

•• **In general, the correlation between illicit smoking and the most common economic indicators is weak at regional level.**

- Western Poland is on average better off than Eastern Poland and has a lower level of the ITTP. However, none of the most common economic indicators is a good predictor of the shares of non-domestic cigarettes at regional level.

Chapter 3

*framing the components
in the drivers*

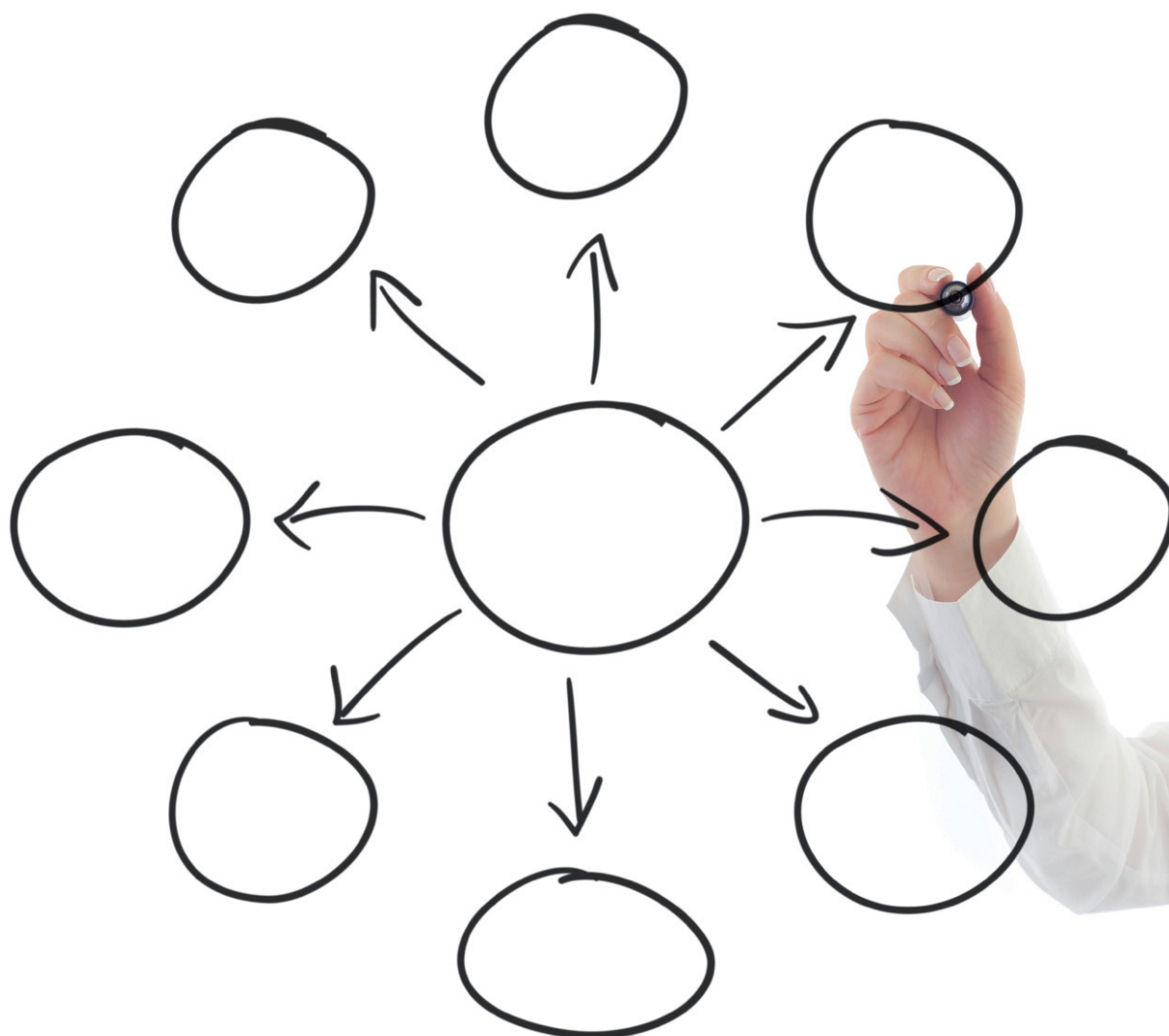
FRAMING THE COMPONENTS IN THE DRIVERS

This chapter analyses the interaction between the drivers (discussed in Chapter 1) and the components of the ITTP (Chapter 2). It draws on the information provided in the previous analyses, and identifies the **four key factors of the ITTP** (next subsection). These are **fundamental determinants of the illicit trade, and they affect all of its components**. Hereafter, four subsections analyse **how the five drivers affect the key factors and in turn the components of the ITTP**. Each subsection analyses how the various elements of the drivers influence the demand, supply, products, *modus operandi* and geographical distribution of the ITTP.

THE FOUR KEY FACTORS OF THE ITTP

The analyses presented in the previous chapter highlighted four key factors influencing the ITTP in Poland: **accessibility, availability, profitability, risk**.

- **Accessibility:** the price of illicit tobacco is a crucial factor in determining the scope and prevalence of the ITTP.



- Any growth in the price differential between legal and illegal products increases the relative accessibility and attractiveness of illicit tobacco. In Poland, tobacco taxation above the inflation rate has caused large price increases, especially after 2006 (WHO 2009, 36; Gembicki 2011, 16; Euromonitor International 2012b, 11).
- **Availability: the diffusion of illicit tobacco products has a major impact on the ITTP.**
- **The easier it is to find and buy illegal products, the greater the likelihood of their diffusion in a specific area.** Poland has a high availability of illicit tobacco products due to its proximity to the main exporter countries of illicit tobacco and to a significant presence of illicit manufacturers within the country (WHO 2009; Joossens 2011; Ministry of the Interior 2012).
- **Poland's position incentivises and facilitates the ITTP** (Joossens 2011; 2012). Poland borders on countries with lower-priced illicit cigarettes to the East; to the West lie the EU markets, where smugglers can obtain high returns by re-exporting the illicit products (Ministry of Finance 2012a).
- **The availability of illicit tobacco should be considered in relation to the availability of genuine products.** Prospected restrictions on access to legal products (i.e. the ban on menthol and slim cigarettes) may increase the demand for illicit tobacco and therefore stimulate the ITTP (Coelho and Arink 2013, 30).
- **Profitability: the ITTP is an extremely profitable activity due to the high income that it offers compared with its operational costs.**
- **The ITTP provides very high incomes** because most illicit tobacco products pay no, or very limited, taxes. At the same time, cigarettes are the commodity with the highest fiscal value per weight (Joossens 1998, 149-150).
- The Polish tax level and structure provide incentives for both large-scale smugglers and local distributors, encouraging the ITTP (see The supply, p.68). In Poland, the share of taxes in the retail price is the fifth highest in the EU. The amount of total taxes per 1,000 sticks is lower than in other EU countries, but it is higher than in eastern neighbouring countries (WHO 2012; European Commission 2013). In Poland, the retail price of illicit tobacco is much lower than the legal price (around 65% less) (Joossens et al. 2009; Otto 2013). This creates very high margins for the ITTP (Melzer 2010; Transcrime 2012c).
- **Risk: the threat of detection/accusation/conviction and the sanctions impossible affect the diffusion of the ITTP.**
- **The available sanctions do not deter the ITTP** (Lisicki 2009, 9; Lentowicz 2010). In particular, the penalties for smuggling are relatively low. The crime of producing illegal tobacco products is punished with imprisonment from one to three years. However, a serious case of large-scale counterfeiting and distribution may incur a penalty of seven years and six months of imprisonment (see *Hypothetical case*, p.58).
- **Increasing law enforcement actions against the ITTP may yield important results in the forthcoming years.** The constant growth of tobacco seizures is indicative of this positive trend. Measures envisaged in the *Customs Service Strategy for the fight against smuggling and ITTP for the years 2012-2015*, such as reinforcement of border controls, increasing international collaboration, and employment of cutting-edge equipment, may make the ITTP riskier (Ministry of Finance 2012c).

Figure 45. The interaction between the demand for illicit tobacco and the five drivers

Source: Transcrime elaboration

negative effect
(increases the ITTP)

positive effect
(decreases the ITTP)



THE DEMAND FOR ILLICIT TOBACCO AND THE DRIVERS

There are multiple interactions between the drivers and the demand for illicit tobacco (Figure 45). In particular, **the main factors affecting the demand are the accessibility and the availability of illicit tobacco.**

There follow some of the most important interactions between the five drivers and the demand for illicit tobacco.

Society and economy

- Any growth in the price differential between legal and illegal products increases the relative accessibility of illicit tobacco. In Poland, since EU accession, tobacco taxation has risen above the inflation rate and caused large price increases. This may induce price-concerned consumers to purchase illicit tobacco (WHO 2009, 36; Gembicki 2011, 16; Euromonitor International 2012b, 11).
- Poland has a growing economy, but the wealth level is still quite low and unemployment remains a concern** (see Society and Economy, p.21). In the eastern regions, where these problems are more severe, the purchase of illicit tobacco products may enable smokers to maintain their desired level of consumption.

- Rising cigarette prices cause downtrading because most price-sensitive consumers may find difficulties to afford ready-made cigarettes. As a result, the demand for HRT is increasing in both the licit and illicit markets (WHO 2009; Tokarski 2012).

Legal market

- **Significant increases in tobacco taxation have resulted in higher retail prices.** This has stimulated a certain downtrading of tobacco products (as indicated by the growth in the consumption of smoking tobacco) and made legal tobacco products less accessible. The ITTP has grown remarkably after these increases in retail prices (Euromonitor International 2012b, 11).

Regulation

- Regulation may positively or negatively affect the availability of legal/illegal products. **Restrictions on availability create opportunities for illicit products.**
- The prohibition on vending machines may foster the demand for illicit tobacco especially when legal retailers are closed.
- **The planned ban of menthol and slim cigarettes may accidentally increase the attractiveness of the black market** among the consumers of these products (Coelho and Arink 2013).
- The ban on selling tobacco to minors may involuntarily reinforce the segment of the illicit market composed of young people without access to the legal market. More than half of Polish smokers start to smoke before turning eighteen (see Legal market, p.27). For these reasons, the illicit circuits may become distribution channels for young smokers (Stop18 2012, 16).
- In 2012, green leaf became popular because of the lack of excise duty on it. In 2013, the government closed this loophole, but part of the demand for this product shifted to the black market (KPMG 2013, 155; Niemczyk 2013).

- After accession to the EU in 2004, **Poland increased its tobacco taxation** (European Commission 2013). **Heavy smokers and consumers in deprived circumstances**, especially in the eastern regions, find these increases less acceptable and **may turn to the black market** (Euromonitor International 2012b).

Crime environment

- In Poland, there is **widespread acceptance of counterfeiting** (Szozzuk and Barchanski 2009; Nowak 2012) **this may favour the ITTP**. In 2011, cigarettes were the most frequently seized item among counterfeit products (Ministry of the Interior 2012, 167).
- **The increase in cannabis traffic and consumption among young people** (see Crime environment, p.45) **may lead to an increase in the ITTP**, since the two traffics may share same distribution channels.

Enforcement

- The lack of public awareness campaigns on the consequences of consuming illicit tobacco products may prevent reduction of the black market (see Enforcement, p.51).

THE SUPPLY OF ILLICIT TOBACCO AND THE DRIVERS

Profitability, availability and risk are crucial for the supply. This suggests that actions tackling the supply side of the ITTP should aim at reducing the availability and the profitability of illicit tobacco and at increasing the risks for suppliers (Figure 46, p.91).

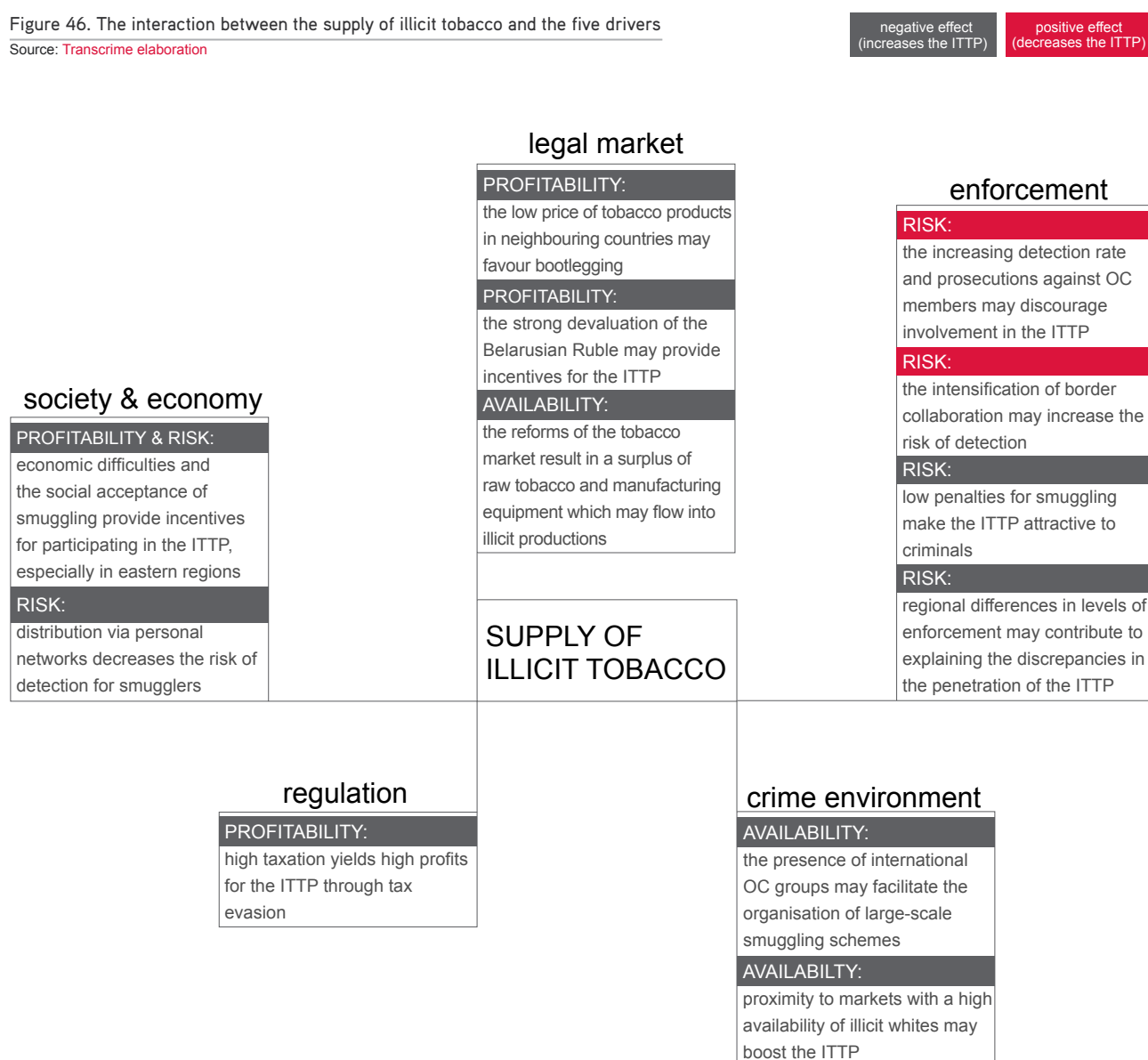
There follow some of the most important interactions between the five drivers and the supply of illicit tobacco.

Society and economy

- **Many smugglers come from eastern regions, where scarce job opportunities and proximity to ample illicit markets** provide incentives for participating in the ITTP (Andrusz 2008; WHO 2009, 33).

Figure 46. The interaction between the supply of illicit tobacco and the five drivers

Source: Transcrime elaboration



- **The purchase of illicit products from acquaintances is a common way to save on tobacco, and with low risks** (Message House Agencja PR 2006). These practices may contribute to expand the ITTP.
- **Some smugglers come from Ukraine.** Ukrainians exploit the proximity, the price differential, and the scarcity of controls (Lisicki 2009).

Legal market

- **The lower prices of tobacco products in eastern neighbouring countries heighten the attractiveness of bootlegging** (Komenda Główna Policji 2010; Ministry of the Interior 2012). **Similarly, the higher prices of cigarettes in Western countries encourage smugglers to extend their ITTP to the EU** (Shleynov et al. 2008; Locke 2010; Ministry of the Interior 2012).

- In 2011, Belarus strongly devaluated its currency, thus increasing the price gap between Polish and Belarusian products and attracting cross-border purchasers and smugglers (Euromonitor International 2012c).
- In 2009, the **government reformed and deregulated the tobacco market**. The consequences have been laxer control over the supply chain and a reduction in the number of actors in the industry. **This transformation may facilitate an uncontrolled flow of raw tobacco and machinery to illicit production** (Ciecierski, Cherukupalli, and Weresa 2011; Ministry of the Interior 2012).

Regulation

- Diverting tobacco products into the illicit market, where sales are tax free, generates considerable margins for illicit traders. **Increases in tobacco taxation and the possibility to exploit cross-border tax differentials amplify these profits** (Lentowicz 2010; Joossens and Raw 2012, 232).

Crime environment

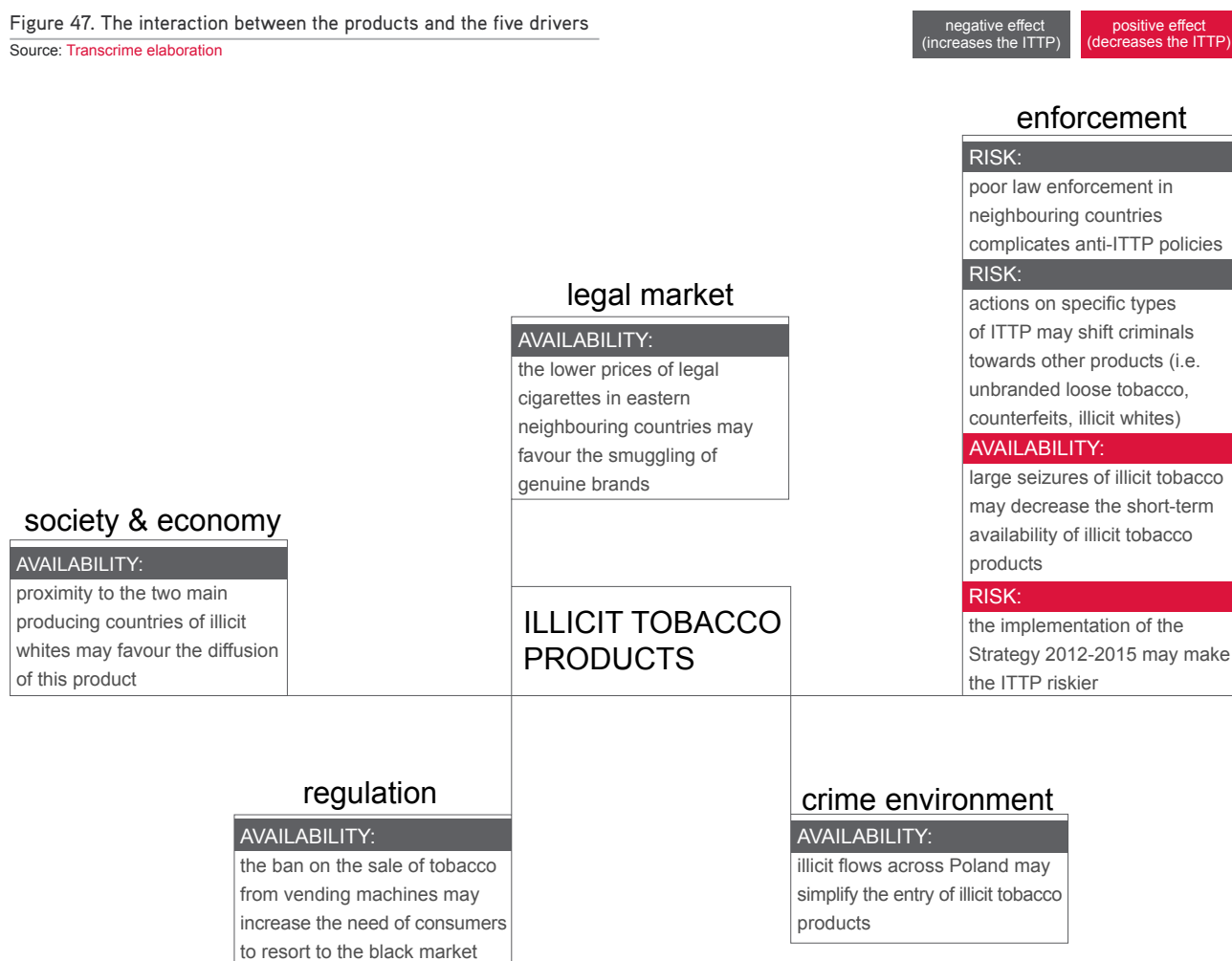
- **In Poland, there is medium-high activity by Polish and international OC groups**. They operate across borders mainly in drug trafficking, vehicle thefts, food counterfeiting and human trafficking (see Crime environment, p. 45) (van Dijk 2008; U.S. Department of State 2011, 4; Europol 2011b, 17). The presence of these groups may facilitate the organisation of large-scale smuggling schemes.
- Poland shares its northern and eastern borders with the Russian Federation, Ukraine and Belarus, the main country of origin of European illicit tobacco products. This is a crucial factor in determining the level of both individual and large-scale smuggling (Joossens 2011; 2012).
- **The use of corruption enables smugglers to introduce and distribute illicit tobacco products into Poland at low risk** (Shleynov et al. 2008; Lentowicz 2010).

Enforcement

- **Polish law enforcement is becoming more effective**. The overall crime detection rate is increasing and activities against the ITTP have escalated, as testified by the growing number of seizures (see Enforcement, p.51). Efficacious actions by the police forces may be an important instrument in combating the growing ITTP.
- **Greater international cooperation, the use of modern detection instruments**, and other actions foreseen by the “*Customs Service Strategy for the fight against smuggling and ITTP for the years 2012-2015*”, may prove effective in increasing the risks for traffickers (see Enforcement, p.51). Moreover, the mounting scale of smuggling and the increase in illegal cigarette manufacturing have led to greater cooperation in the fight against the ITTP by the Customs Service with other law enforcement agencies (WHO 2009, 33).
- **The available sanctions may not be sufficient to deter the ITTP** (Lisicki 2009, 9; Lentowicz 2010). In particular, the penalties for smuggling are relatively low. Penalties for manufacturing illicit tobacco products range from one to three years. A serious case of large-scale counterfeiting and distribution may incur a penalty of seven years and six months of imprisonment (see *Hypothetical case*, p.58).
- **The Police report a lower number of crimes in eastern regions than in western regions** (Ministry of the Interior 2012, 10). The discrepancy may indicate a lower level of law enforcement in eastern regions liable to stimulate higher participation in the ITTP in those regions together with a greater availability of illicit tobacco products. The relation between Polish local law enforcement and penetration of the ITTP warrants deeper analysis.

Figure 47. The interaction between the products and the five drivers

Source: Transcrime elaboration



THE PRODUCTS AND THE DRIVERS

Many different illicit tobacco products are available in Poland: smuggled cigarettes, counterfeit cigarettes, unbranded HRT, and most of all illicit whites (ALMARES 2012). **Availability is the key element in the analysis of illicit products** (Figure 47).

There follow some of the most important interactions between the five drivers and illicit tobacco products.

Society and economy

- **Geographical proximity to the main producers of illicit whites** located in the Russian Federation and in Belarus **may foster the flow of these products to Poland** (Shleynov et al. 2008; KPMG 2013).

- **Social, cultural and economic factors affect the types of illicit products consumed by smokers.**

For example, there is a growing interest among consumers in HRT (see Legal market, p.27). This may stimulate the illicit supply of this product (Euromonitor International 2012b).

Legal market

- **Proximity to low-price markets may facilitate the contraband of genuine cigarettes** in Poland. Despite this, illicit whites are the dominant product on the illicit market (see The products, p.72).

Regulation

- Regulation may positively or negatively affect the availability of legal/illegal products. **Restrictions on availability create opportunities for illicit products.**

- The **ban on the sale of tobacco products from vending machines**, reducing the opportunities to buy legal tobacco products, may increase the attractiveness of the black market.
- The EC is working on a legislation **banning menthol, other flavoured cigarettes and slim cigarettes**. These two categories are particularly appreciated by Polish smokers and their removal from the legal supply may involuntarily push some of their consumers towards the illicit market (Coelho and Arink 2013).

Crime environment

- OC groups, active in the country, may have the economic and organisational resources to establish illicit tobacco factories and to manufacture counterfeit cigarettes (Europol 2011b). Poland's EU membership and the availability of a skilled labour force from abandoned Bulgarian manufacturers are other factors that favour the growing production of illicit tobacco in Poland (Ministry of the Interior 2012, 170-171).
- **Tobacco smugglers may exploit the illicit routes used for drugs, migrants, and smuggled commodities** (see Crime environment, p.45).

Enforcement

- **A certain weakness of surveillance in neighbouring countries** may facilitate the entry of illicit products into Poland (Kaplan 2009). The lack of controls regards both the customs and the factories producing illicit whites, which are widespread in the Russian Federation and in Belarus.
- **Cooperation with source countries is crucial** (Europol 2011a, 25). Currently, there is no legal framework for international cooperation against the ITTP. In November 2012, the WHO approved a *Protocol on Eliminating Illicit Trade in Tobacco Products* within the WHO Framework Convention on Tobacco Control. However, several studies have raised doubts about its actual impact (Boister 2010; Transcrime 2012b).

- **The effectiveness of the law enforcement agencies in combating the ITTP is improving** (see Enforcement, p.51). The growing effectiveness is evidenced by the larger number of seizures and raids against illicit manufacturers (WHO 2009, 36; Warsaw Business Journal 2011).
- The implementation of the measures envisaged by the *"Customs Service Strategy for the fight against smuggling and ITTP for the years 2012-2015"* may be effective in reducing the ITTP in and across Poland (Ministry of Finance 2012c).

THE MODUS OPERANDI AND GEOGRAPHICAL DISTRIBUTION OF THE ITTP AND THE DRIVERS

Risk and availability play a crucial role in influencing the *modus operandi* and the geographical distribution of the ITTP (Figure 48). Indeed, criminals may produce and distribute illicit tobacco with different methods and through different channels.

There follow some of the most important interactions between the five drivers and the *modus operandi* and geographical distribution of the ITTP.

Society and economy

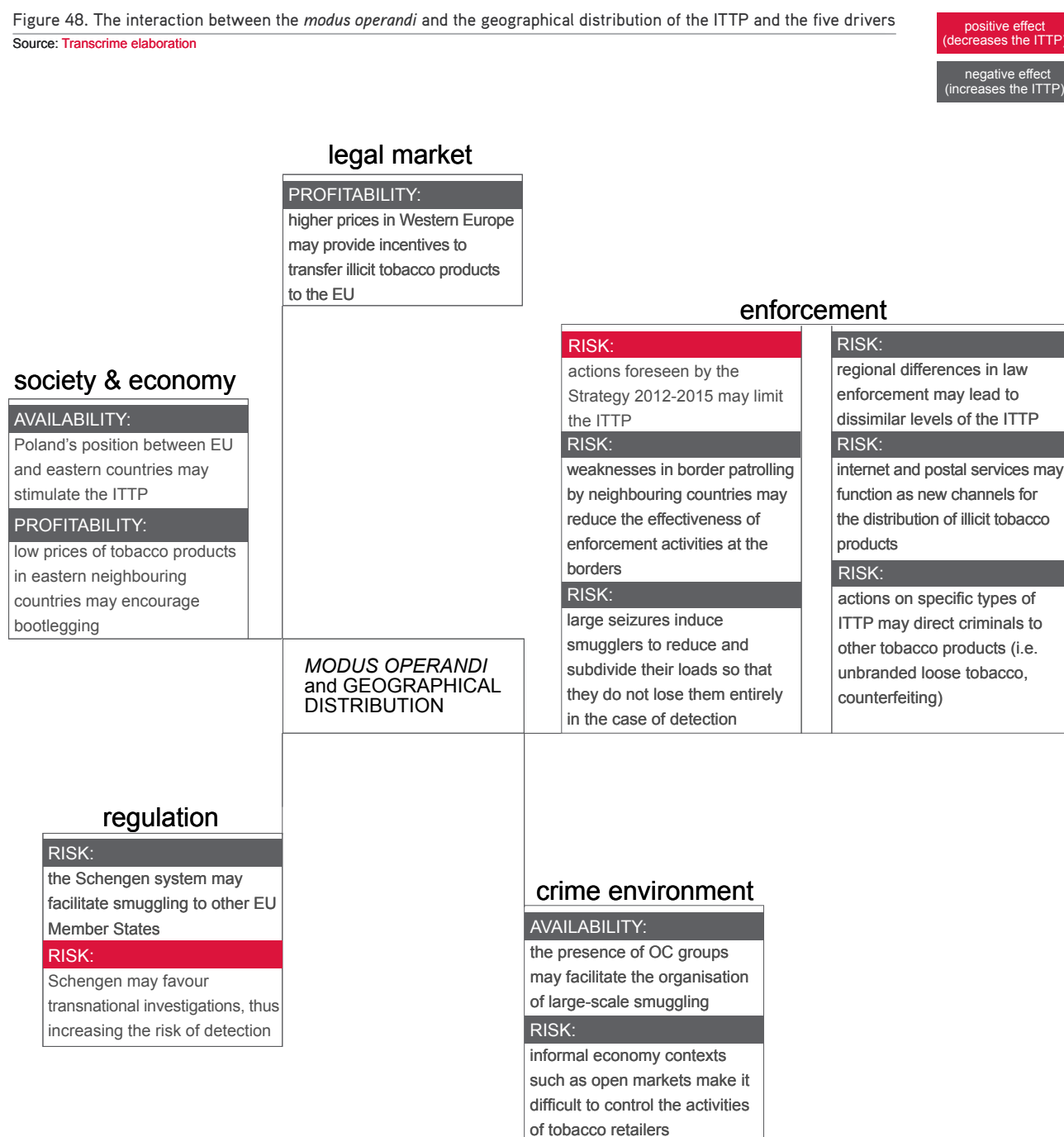
- Due to its position, in Poland, illicit cigarettes bound for the internal market flow together with illicit cigarettes targeting the Western EU markets. Large price differentials between Eastern countries and Poland and between Poland and Western markets drive these flows (Shleynov et al. 2008; Locke 2010; Ministry of the Interior 2012).

Legal market

- **In the countries bordering on Poland to the West, the price of tobacco products is significantly higher than in Poland** (Ministry of Finance 2012a). These price differences may induce traffickers to extend the ITTP to other EU Member States like Germany and the UK (see *Modus operandi* and geographical distribution, p.78).

Figure 48. The interaction between the *modus operandi* and the geographical distribution of the ITTP and the five drivers

Source: Transcrime elaboration



Regulation

- **Regulation may unwittingly create opportunities for illicit and criminal activities** (Albrecht and Kilchling 2002; Morgan and Clarke 2006; Savona et al. 2006). The tobacco market is no exception. Recent studies have emphasised the unintended risks associated with the regulation of the tobacco market (Transcrime 2011a; Transcrime 2011b; Transcrime 2012a):

- Trade and travel between Poland and Western Europe became easier after Poland joined the EU (in 2004) and signed **the Schengen Agreement** (in 2007). This **has increased Poland's role as an exporter of contraband cigarettes** to Central and Western Europe (Locke 2010; Euromonitor International 2012b, 11).
- On the other hand, transnational collaborations between enforcement authorities have become easier since Schengen Agreement, thus increasing the risk of detection for criminals (Schmitz 2013).

- A medium-low level of regulation of the tobacco industry with respect to the ITTP may be insufficient to stop the expansion of the black market. In regard to legal duties for manufacturers not to facilitate smuggling and cooperation agreements between national public bodies and tobacco companies to prevent the ITTP, Poland relies exclusively on voluntary agreements between the EC and the major tobacco companies (see Enforcement, p.51).
- **Large seizures of illicit tobacco induce smugglers to reduce the size of their loads.** Smugglers transport small loads of cigarettes. This is a means not to lose the entire load, and it reduces the damage in the case of detection and confiscation (RILO 2010).
- The increasing effectiveness of the fight against the ITTP has heightened the risk of detection along borders (see Enforcement, p.51). For this reason, **OC groups have installed their cigarette production directly in Poland** (WHO 2009, 34; Europol 2011b).

Crime environment

- **The presence of OC groups may facilitate complex smuggling schemes** which require a certain level of organisation and economic resources (von Lampe 2001). These may regard:
 - the use of corruption to introduce illicit tobacco products into Poland (Shleynov et al. 2008; Lentowicz 2010),
 - the counterfeiting of legitimate brands (Europol 2011b),
 - diverting large volumes of cigarettes from their legitimate supply chain (von Lampe 2001).
- **Contexts characterised by informal economy, like open markets, facilitate the sale of illicit tobacco products** (Joossens et al. 2000; Antonopoulos 2009). Street vendors in open markets are the primary channel for the distribution of illicit tobacco products in Poland (Message House Agencja PR 2006; Ciecierski 2007, 4-19).

Enforcement

- **Increasing law enforcement action against the ITTP may yield important results in the forthcoming years.** Measures envisaged in the *Customs Service Strategy for the fight against smuggling and ITTP for the years 2012-2015*, such as the strengthening of border controls, increasing international collaboration, and employment of cutting-edge equipment, may make the ITTP riskier (Ministry of Finance 2012c).
- **The Police reports a lower number of crimes in eastern regions than in western ones** (Ministry of the Interior 2012, 10). This strong discrepancy may indicate a lower level of law enforcement in eastern regions and may contribute to explain the higher level of the ITTP in this area.

This report provides the Polish country profile of the *Factbook on the Illicit Trade in Tobacco Products* project. Considering the limited number of previous studies and the lack of data, the results of this study are provisional. They offer a first analysis of the ITTP in Poland and show that more research is needed in this field. The ITTP is a complex phenomenon comprising a variety of activities, products and actors. The analysis of the illicit trade must take into account a number of factors, which may significantly influence it.

This report has analysed the multiple facets of the ITTP in Poland. The information gathered originates from academic literature, grey literature, open sources, questionnaires and interviews with experts and stakeholders.

THE FIVE DRIVERS

Chapter 1 (The five drivers) of the report analysed in detail the five drivers of the ITTP: society and economy, regulation, legal market, crime environment and enforcement. The five drivers are areas whose structures may affect positively or negatively the ITTP.

- **Society and economy:** twenty years of social and economic reforms gave Poland a solid and growing economy and the possibility to integrate fully into the EU. Poland's average wealth remains significantly below the EU and OECD averages also because of large economic disparities within the country.
- **Legal market:** Poland is the main manufacturer of tobacco products in Europe and the third exporter in the world. In 2009, the government deregulated and liberalised the tobacco market. The consequence has been an increase in the availability of raw tobacco and disused machinery. The industry is also changing and growing under the influence of greater exports and the higher importance of multinational tobacco companies. With respect to consumption, increasing prices drive down selling volumes and cause smokers to switch to cheaper products. Nevertheless, prevalence is high in general, and increasing among women.
- **Regulation:** tobacco market regulation is medium. Taxation on cigarettes is among the highest in the world but the country invests scant resources in tobacco control policies. There is a medium-low level of supply chain control, a medium-high level of control on tobacco consumption, and a medium level of control over sales, advertising and promotion.
- **Crime environment:** Poland has low crime levels, with medium-low corruption and medium informal economy. However, numerous organised crime groups are active in the country. Drug prevalence is low; only the use of cannabis is quite widespread among young people. Synthetic drugs have become increasingly common.

- **Enforcement:** the duties of tobacco manufacturers in preventing the ITTP mainly derive from voluntary agreements between the industry and the European Commission. The fight against the ITTP has augmented in recent years thanks to the greater involvement of national agencies, international cooperation, and new equipment. Increased law enforcement has led to a larger number of seizures.

THE FOUR COMPONENTS OF THE ITTP

Chapter 2 (The Four Components) discussed in detail the characteristics of the illicit trade in Poland by framing the illicit tobacco market in its four components: demand, supply, products and *modus operandi*.

- **The demand:** low price is the main driver of the demand for illicit tobacco. Avoiding taxes and buying tobacco products for half the legal price increases the accessibility of these products and represents an opportunity for tobacco consumers. In Poland, consumers can find illicit tobacco products on the streets, in open markets, and on the Internet.
- **The supply:** profitability, availability and risk are the main drivers of the supply of illicit tobacco and are crucial factors for all the actors involved in the ITTP, independently of their degree of organisation. In Poland, organised groups and single smugglers are involved in the supply chain of the ITTP. The proximity of supplier countries of cheap/illicit tobacco to the East and of rich markets to the West contributes to making Poland both a destination and a transit country for illicit tobacco products.
- **The products:** it is difficult to assess precisely the extent of the ITTP in Poland because there are no official estimates of the illicit tobacco market. The analyses available indicate that the impact of the ITTP is increasing and that its penetration in the tobacco market is above 13%. All kinds of illicit tobacco products are available on the Polish black market.

- ***Modus operandi* and geographical distribution:** smugglers mainly use motorways and railways connecting Poland and eastern neighbouring countries to introduce cigarettes into Poland. Traffickers who smuggle cigarettes into the EU bring them into Germany along highways. Counterfeiting relies on the availability of raw tobacco and cheap machinery. Exploitation of the Internet and of postal services by the ITTP has become increasingly common in Poland. The phenomenon is much more widespread and rooted in the East of the country.

FRAMING THE COMPONENTS IN THE DRIVERS

Chapter 3 (Framing the Components in the Drivers) addressed the interactions between the drivers and the components of the ITTP. The analysis identified four key factors with a fundamental role in Poland's illicit market (accessibility, availability, profitability and risk).

- **Accessibility:** the price of illicit tobacco, and particularly its relative price compared to legal products, is a crucial factor in determining the scope and prevalence of the ITTP.
- **Availability:** the diffusion of illicit tobacco products has an important impact on the ITTP.
- **Profitability:** the ITTP is an extremely profitable activity owing to the high income that it offers compared with the operational costs.
- **Risk:** the threat of *detection/accusation/conviction* and the impossible sanctions impact on the diffusion of the ITTP.

RECOMMENDATIONS FOR FURTHER RESEARCH

The results of this study point out that it is necessary to conduct further research on the ITTP.

- The availability of reliable, periodical **official estimates** would facilitate research in any domain concerning the ITTP.
- Analysis of **illicit trade in unbranded HRT and loose tobacco** in Poland is deficient. Measuring the extent of this phenomenon and determining the *modus operandi* behind it may be a significant step forward in understanding the ITTP.
- The collection of reliable and comprehensive data on the volume of **smuggling to the EU** would be crucial for significant analyses on this important aspect of the Polish ITTP. A greater capacity to distinguish internal traffic from smuggling to the rest of the EU would make it possible to develop better strategies with which to combat the ITTP both in Poland and in the rest of Europe.
- **Surveys and studies on the demand for illicit tobacco** products are still lacking. Identifying the socio-economic characteristics of consumers and the reasons for their illicit purchases is essential. It would enable the design of effective communication strategies, prevent illicit behaviours, and reduce the demand for illicit tobacco.
- A better understanding of how **different levels of law enforcement within the country affect the penetration of the ITTP** in the various regions would help to distribute officers and equipment more efficiently.

In conclusion, the results of the study show that the ITTP is a complex and multifaceted issue. Individual factors, such as socio-demographic status and income, but also structural conditions like proximity to countries with lower-priced tobacco products should be taken into account in the development of anti-ITTP strategies. Moreover, the burden of rising taxes and a general favourable attitude towards illicit tobacco products may be other important factors. Given the complexity and the multitude of factors involved, **the ITTP cannot be reduced to a problem relating exclusively to law enforcement and criminal justice policy. It is necessary to adopt additional, non-criminal measures to prevent illicit consumption, and to reduce the corrupt practices that facilitate smugglers' activities.** Finally, the government should tackle the ITTP, especially in the eastern border regions, with comprehensive strategies including criminal, non-criminal/administrative and other indirect measures, for example through a wide-ranging situational crime prevention approach.

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